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# SUPREME COURT OF THE UNITED STATES.

## No. 41.

## THE UNITED STATES, APPELLANT,

VERSUS

## HEIRS OF JOSEPH DELESPINE AND OTHERS.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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*Langtree & O'Sullivan, Print.*

Before the Honorable Robert Raymond Reid, Judge of the supeiror court for the district of East Florida, and specially authorised by law to receive and adjudicate claims and titles to land in the district of East Florida.

Be it remembered, that on the twenty-second day of May, in the year of our Lord, one thousand eight hundred and twenty-nine, Joseph Delespine, Michael Lazarus, and John Drysdale, by their attorney, brought and filed in the clerk's office of the superior court for the district of East Florida, their petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

*Petition to the Court.*

To the Honorable the Judge of the Superior Court for the District of East Florida.

The petition of Joseph Delespine, Michael Lazarus, and John Drysdale, respectfully showeth that your petitioners claim title to all that certain tract or parcel of land, consisting of ten thousand, two hundred and forty acres, situate, lying, and being at the north head of the river Ys, or Indian river, on the west side thereof, in that part of the territory of Florida known as East Florida, and within the jurisdiction of this honorable court; that the said land was originally conceded or granted in absolute property to one Pablo Fontane, as subject of his Majesty the King of Spain, and a resident of East Florida, by concession or grant bearing date the 10th of November, 1817, made by Don Jose Coppinger, then the governor of the said province of East Florida, and while it was a dependency of the crown of Spain, and that afterwards, to wit, on or about the 21st August, 1820, the said Pablo Fontane applied to the aforesaid Don Jose Coppinger, then also being the governor of the said province, for an order for the survey of said land, and on the said day and year last mentioned, an order to that effect was duly obtained from the said governor; whereupon the said land was duly surveyed and laid off on the north west side of the river Ys, or Indian river; all of which will more fully and distinctly appear by the memorial of the said Pablo Fontane for the said land, the concession for the same, and the plat and certificate of the survey thereof, reference being thereto had; and your petitioners pray leave to refer to the said documents at the hearing of this cause.

And your petitioners further show, that the said Pablo Fontane transferred and conveyed said land to your petitioner, Joseph Delespine, in fee simple absolute, on or about the eighth day of March, 1822, and afterwards the said Joseph Delespine, by indenture bearing

date the 8th day of March, 1822, granted, bargained, and sold in fee simple absolute, to your petitioner Michael Lazarus, four thousand eight hundred and seventy acres of the said tract or parcel of land, and that the said Joseph Delespine afterwards by indenture bearing date the 31 October, 1824, granted, bargained, and sold to your petitioner John Drysdale, in fee simple absolute one undivided tenth part of the said tract or parcel of land; all of which will more fully and at large appear by the said several deeds and conveyances, reference being thereto had, and your petitioners prays leave to refer to the same at the hearing of the said cause.

And your petitioners further show unto your honor that after the transfer of the said land to the said Joseph Delespine as aforesaid, by the said Pablo Fontane, he the said Joseph Delespine, duly submitted his claim to the examination of the board of commissioners appointed under, and in virtue of an act of the Congress of the United States, entitled "an act amending and supplementary to the act for ascertaining claims and titles to land in the territory of Florida, and to provide for the survey and disposal of the public lands in Florida," passed the 3d day of March, 1823, and that the land so claimed by your petitioners, and situated in the territory aforesaid, are embraced by the treaty between the United States and Spain of the 22nd February, 1819, and that the grant thereof is not annulled by the said treaty, or the ratification thereof, by the king of Spain; that the claim to the said land has not been decided or finally settled under the provisions of the act of the Congress of the United States, entitled, "an act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," passed the 23d May, 1828, or of any of the acts to which the said last recited act is supplementary; that the claim of the said Joseph Delespine was for a greater quantity than the commissioners under the said act were authorised to decide, and above the amount confirmed by the afore recited act of Congress passed 23rd May, 1828; and that the said claim has not been reported by the said commissioners appointed under any of the aforerecited acts of Congress, or any other, or by the register and receiver acting as such under the several acts of Congress in that case made and provided, as antedated or forged.

Wherefore your petitioners pray that the validity of their title may be inquired into, and decided by this honorable court, and that due process may issue and be served according to the provisions of the act of the Congress of the United States in that case made and provided. And your petitioners will, as in duty, &c.,

JNO. DRYSDALE,
*Attorney for Petitioners.*

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district; and the return of the said marshal thereon is in the words and figures following, to wit:

"Served a copy on Thomas Douglas, Esq., United States attorney, 25th May, 1829."

"WATERS SMITH, *Marshal.*"

And afterwards to wit, on the twenty-fourth day of July, in the year of our Lord one thousand eight hundred and twenty nine, Thomas Douglas, Esquire, United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition, which said answer is in the words and figures following, to wit:

*Answer of United States Attorney.*

SUPERIOR COURT, *November Term, in the year* 1829.

THE UNITED STATES OF AMERICA,
*ats.*
JOSEPH DELESPINE, AND OTHERS.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the petition or bill of complaint of Joseph Delespine, Michael Lazarus, and John Drysdale.

The said attorney, in the name, and for, and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities in the said petition or bill of complaint contained for answer thereunto, or unto so much thereof as it is material and necessary for them to answer unto, answereth and saith: That, whether any such grant for ten thousand, two hundred and forty acres of land, was made or not to Pablo Fontane, by concession or grant, bearing date the 10th of November 1817, by Don Jose Coppinger, then the governor of the province of East Florida, as the said petitioners have in their said petition or bill of complaint alleged, set forth, and described, or whether the said Pablo Fontane afterwards, to wit, on or about the 21st of August 1820, applied to the aforesaid Don Jose Coppinger, governor, &c., as aforesaid, for an order for the survey of the said land, or whether he obtained any such order as the said petitioners have in their petition or bill of complaint aforesaid alleged, or whether any such survey of the said land was made or not, as is in the petition or bill of complaint aforesaid alleged and described, this respondent has no knowledge, nor has he any knowledge of the making and execution of the several indentures in the said petition or bill of complaint mentioned, except what he has derived from a perusal of the said petition or bill of complaint, and cannot therefore, either admit or deny the same, but respectfully prays this honorable court to require of the petitioners aforesaid upon the hearing of this cause, due proof of the making and execution of the said supposed grant, survey, and indentures, if any such were ever made, and of all the matters and things in their said petition or bill of complaint al-

leged and set forth as they are therein stated, according to law and the usages of courts of equity.

And this respondent avers, that if any such grant of lands was made by the said Don Jose Coppinger, to the said Pablo Fontane, as is in said petition or bill of complaint alleged, which is by no means admitted, it was made contrary to, and in violation of the laws, ordinances, and royal regulations of the government of Spain, which were in force in the said province of East Florida at the time when the said supposed grant is alleged to have been made, as aforesaid, providing for the quantity of lands in its provinces, of which said provinces the said province of East Florida was then one, and without any power or authority on the part of the said Don Jose Coppinger to make it, and that if it was made as aforesaid, it was never approved by the government of Spain aforesaid, and that it was and is wholly null and void; and farther, that no power had been conferred by the Spanish government aforesaid, upon the said Don Jose Coppinger, at the time when the said supposed grant of lands is alleged to have been made, to make grants of land in Florida of the magnitude and description of the one now claimed and described by the petitioners aforesaid in this suit: and this respondent further prays this honorable court, that the petitioners aforesaid may be required to show and prove, on the hearing of this cause, the specific powers which had been conferred, [if any power had been conferred] by the Spanish government aforesaid, upon the said Don Jose Coppinger, at the time when the said supposed grant is alleged to have been made as aforesaid, to make grants of land in Florida; and particularly, that they may be required to show and prove the specific powers under which he claimed to act, in making the said supposed grant, if any such grant was ever made by him: and this respondent suggests, that if the said Pablo Fontane had, or the said petitioners have any grant for the said land, it must have been made since the twenty-fourth day of January, in the year one thousand eight hundred and eighteen, and that it is consequently rendered entirely null and void by the provisions of the latter clause of the eighth article of the treaty which was made and concluded on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, by and between the same United States and his Catholic majesty the king of Spain, and that if any such order was obtained for a survey of the said land, or if any such survey was made as is in said petition or bill of complaint alleged, on or about the 21st of August, 1820, the said order and survey were also rendered entirely null and void by the provisions of the same article of the aforesaid treaty, all of which will more fully appear by reference to the said treaty, which this respondent prays leave to introduce and read on the hearing of this cause.

And this respondeth further saith, that, at the time when the said supposed grant is alleged to have been made as aforesaid, it was, and for a long space of time had been, the fixed and settled policy of the government of Spain aforesaid, to parcel out its colonial domain in reference to the sole objects of increasing the population of its provinces, and of benefitting its indigent subjects, and that according

to that policy, grants of land for the purpose of speculation were never approved or tolerated by said government, and that the aforesaid supposed grant of lands was obtained by the said Pablo Fontane (if it was obtained at all,) for the purpose of speculation only.

And this respondent farther saith, that if the said supposed grant of the said lands was made as aforesaid, the said Pablo Fontane and the said petitioners have, by a total failure and neglect to occupy, cultivate, or improve the said tract of land for a period of more than ten years last past, entirely forfeited and lost all right and title which they or either of them ever had, [if they, or either of them, ever had any right or title,] in and to the said tract of land and every part and parcel thereof.

And now, having fully answered all the matters and things in the said petition or bill of complaint contained or alleged, the said attorney prays this honorable court, that the said United States may be hereof discharged, and that their reasonable costs and charges, by them in and about the defence of this suit, paid, laid out, and expended, may be adjudged and decreed to them, &c.,

THOS. DOUGLAS,
*United States Attorney, &c.*

And afterwards, to wit: on the twelfth day of May, in the year of our Lord one thousand eight hundred and thirty-two, the said petitioners by their said attorney, brought and filed in the clerk's office aforesaid their replication; which is in the words and figures following, to wit:

*Replication.*

JOSEPH DELESPINE, and others,
*vs.*
The UNITED STATES. } Replication.

These replicants, saving and reserving all manner of exception which may be had or taken to the manifest errors, uncertainties, and insufficiencies of the answer of the said defendants, for replication thereto saith, that these replicants do and will aver, maintain, and prove their said bill to be true, certain, and sufficient in the law to be answered unto by the said defendants, and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by the replicants, without that that any other matter or thing in the said answer, contained material, or effectual in the law to be replied unto, and not herein and hereby well and sufficient replied unto, confessed or avoided, traversed or denied, is true; all which matters and things, these replicants are ready to aver, maintain and prove, as this honorable court shall direct, and humbly pray, as in their said bill they have already prayed.

JNO. DRYSDALE,
*Solicitors for Petitioners.*

And afterwards before the superior court for the district of East Florida, holden at the court house, in the city of St. Augustine, at the term of October, in the year of our Lord one thousand eight hundred and thirty-two, to which term, this cause had come by regular continuance, to wit: on Friday, the eleventh day of said term and the second day of November, the following entry of record, was made in this cause, to wit:

*Leave to Withdraw Papers.*

JOSEPH DELESPINE, AND OTHERS *vs.* THE UNINED STATES OF AMERICA. } Land claim, 10,240 acres.

This day came, as well the counsel for the said claimants, as the counsel for the said United States; and on motion of the counsel for the said claimants, and with the consent of the counsel for the said United States, leave is given him to withdraw from the files of this court, the original copy of the concession in this case, made by Tomas de Agiular, and marked exhibit A., on his placing on file in the place thereof, a duly certified copy of the same. Antonio Alvarez was sworn as a witness in this cause, on behalf of the said claimants, examined, and his testimony taken.

And afterwards, before the superior court for the district of East Florida, holden at the court house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-four, to which term, this cause had come by regular continuance, to wit: on Friday, the twenty-fourth day of said term, and the twenty-second day of the month of August, the following entry of record was made in this cause, to wit:

*Hearing of Cause.*

JOSEPH DELESPINE, MICHAEL LAZARUS & JOHN DRYSDALE *against* THE UNITED STATES OF AMERICA. } Land claim, 10, 240 acres.

This day came, as well the counsel for the said claimants, as the counsel for the said United States, and the counsel for the United States moved the court for a continuance of this cause, which motion was overruled by the court; whereupon, this cause came on to be heard this day, and the petition of the said claimants, and the answer of the attorney of the United States together, with the replication of the said claimants, were read to the court. The claimants counsel offered, in evidence in this case, a document purporting to be an original certified copy, by Tomas Agiular, said to be secretary of the government of this province, of the memorial of, and the concession to Pablo F. Fontane, for the land claimed in this case; to the receiving the said document in evidence, the counsel for

the United States objected, and filed the following reasons, therefore, to wit:

1*st.* Because the Spanish archives of the province, among which the original concession should have been found, if any such ever existed, have been resorted to, and they afford no evidence that such an original ever did exist.

2*nd.* Because the absence of the original, from the office where the laws and usages of Spain, require it to be deposited, and where the laws of the United States now require all such documents to be kept (when unexplained) creates a strong presumption that no such original ever existed.

3*rd.* Because the absence of the original from the office assigned for it by law is unexplained and unaccounted for.

4*th.* Because the complainant has not proven the execution of the original, from which the copy is certified to have been taken.

5*th.* Because the original, if produced, could not be received in evidence, without proving the signature of the governor, and a copy can never be admitted in evidence, when the original, if produced, would require supports from collateral proof.

6*th.* Because the copy cannot prove the signature of the governor to the original grant, if such original ever existed.

7*th.* Because to admit the copy in evidence, would be to allow it higher dignity and credit, than the original; which objections were overruled by the court, and the said document, admitted in evidence, but subject to the opinion of the court as to its admissibility on hearing the argument in this cause. The claimants counsel, then offered in evidence, the original petition for, and the order of survey for the land claimed in this case, and is one of the documents exhibited, and testified to by the witnesses, Joseph S. Sanchez and George I. F. Clarke, on this day, as by their testimony appears; to the receiving the said document in evidence, the counsel for the United States, objected; because the said order of survey, bears date after the 24th of January, 1818, which objection was overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court, as to its admissibility, on hearing the argument in this cause. The claimants counsel then offered in evidence, the original plat and certificate of survey of the land claimed in this case, and is one of the documents exhibited and testified to by the witnesses Joseph S. Sanchez and George I. F. Clarke, on this day, as by their testimony appears; to the receiving the said document in evidence, the counsel for the United States objected, because the said survey, does not follow the calls of the grant, and because the said survey is not made pursuant to the order of the govenor; which objections were overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court as to its admissibility, on hearing the argument in this cause. The claimants counsel then offered in evidence the mesne conveyances in this case, to wit: a deed from Pablo F. Fontane to Joseph Delespine for 10,240 acres of land, dated 6th March, 1822, also a deed from Joseph Delespine to Michael Lazarus, for 5.120 acres of

land, dated 8th of March, 1822, also a deed from Joseph Delespine to John Drysdale, for one tenth part of 10,240 acres of land, dated 31st of October, 1824. The counsel for the United States offered, in evidence in this case, the depositions of Antonio Alvarez, as taken in the cases of John Breward, of John W. Lowe and others, and of Oliver O'Hara and others, against the United States, the same being so copied as to be made applicable to this case, also a document in the case of Juan Russel, dated Havana, 4th of March, 1815.

And the evidence and testimony in this case, on both sides, being now conclusive, this claim was submitted to the court for its decree therein.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Saturday, the twenty-fifth day of the said term, and the twenty third day of the month of August, the following entry of record was made in this cause, to wit:

*Argument Heard.*

JOSEPH DELESPINE, MICHAEL LAZARUS & JOHN DRYSDALE, *against* THE UNITED STATES OF AMERICA. } Land claim, 10,240 acres.

This day came, as well the counsel for the said claimants, as the counsel for the United States, and argument for counsel was heard on the part of the United States; but the court, not having time to hear further argument on this day, the further hearing thereof, was postponed till Monday morning, at 12 o'clock.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Monday, the twenty-sixth day of the said term, and the twenty-fifth day of the month of August, the following entry of record was made in this cause, to wit:

*Case Submitted.*

JOSEHH DELESPINE, MICHAEL LAZARUS & JOHN DRYSDALE, *against* THE UNITED STATES OF AMERICA. } Land claim, 10,240 acres.

This day came, as well the counsel for the said claimants. as the counsel for the United States, and argument of counsel on both sides was on this day concluded, and this claim now finally submitted to the court for its decree therein.

Evidence and testimony offered and read in this cause, and numbered from one to inclusive.

No. 1.

Offered and read by claimants.

SUPERIOR COURT, *East Florida.*

October Term, 1832.

*November* 2nd, 1832.

*Testimony of Anto. Alvarez.*

JOSEPH DELESPINE AND OTHERS *vs.* THE UNITED STATES. } Land claim.

Antonio Alvarez, keeper of the public archives of East Florida, called as a witness and sworn in open court, on behalf of the said claimants, states: I have been a long time in this country, I was born here, am a native of this city; witness states that he was employed by the Spanish Government in the governor's office, I was a clerk in that office; witness states, Thomas de Aguilar was government secretary here in 1817, and I believe that he held that office from 1810 up to 1821; witness states that he is well acquainted with the hand-writing of Tomas de Aguilar, he has seen him write very often; witness states that he was a clerk in the office of which Tomas de Aguilar was the head. Upon the document filed in this cause and marked exhibit A, being presented to the witness, and he being asked to state whether the said document and the signature thereto, is not in the proper hand-writing of the said Tomas de Aguilar, witness answers, that the said document, from the beginning to the end, is in the proper hand-writing of the said Tomas de Aguilar, and that the signature, "Thomas de Aguilar," to the end of the said document annexed, is in the proper-hand writing of the said Aguilar; witness states that it was one of the duties of the office of the said Agiular to give copies of concessions to those to whom concessions had been made.

No. 2.

*Offered and Read by Claimant.*

Being translation of the original certified copy, by Tomas de Aguilar, of the memorial of, and grant to Pablo F. Fontane for the land claimed in this case, and marked exhibit A.

[Rec. No. 41.—2.]

TRANSLATION.

*Memorial for Grant.*

PETITION.

HIS EXCELLENCY THE GOVERNOR.

Don Pablo Fontane, an inhabitant and merchant of this place, with due respect represents to your Excellency, that in consequence of the orders of His Majesty of the twenty-ninth of March, one thousand eight hundred and fifteen, in which he has been pleased to grant, gratuitously, to his faithful subjects of this Province, lands in proportion to the services rendered by them, and as your petitioner considers himself included in the said royal favor, this government granted to him, under date of the twenty-fifth of June of the present year, in absolute property, as it appears by the document duly annexed, a quantity of land comprehended in a square of four miles, on Trout creek, of the river St. John, and as it happened that when he went to take possession of the said land, he found it in the possession of Dona Beig Bagley, widow, and this he represents to your Excellency, in order that you be pleased to withdraw the said document of ownership which is annexed, and to grant him another in lieu thereof, for the same quantity of land on another creek, which, issuing from the north head of Indian river westwardly, runs to the northwest. Therefore, your petitioner supplicates your Excellency to consider as returned the mentioned document of concession, and, in virtue of the said royal order, to grant him, in absolute property, the square of four miles of land, at the place which he has just designated, as the same is vacant, which favor he hopes to receive from the justice of your Excellency. St. Augustine of Florida, tenth of November, one thousand eight hundred and seventeen.

PABLO FONTANE.

*Grant to Fontane.*

DECREE.

St. Augustine, tenth of November, one thousand eight hundred and seventeen: I accept the retrocession which this party offers, of the land which was granted to him on the twenty-sixth of June last past, for the reasons which he exhibits in this petition, and in lieu thereof, I grant him in lawful property, in conformity to the royal order to which he refers, and as he is entitled thereto, the square of four miles of land on the north head of Indian river, which he designates, and to this effect let the secretary's office issue to him a copy conform to this decree, to which will be annexed the copy of this petition, on which the decree was rendered, in testimony thereof, and in order that at all times it may serve as a title in form to the interested party.

COPPINGER.

*Certificates of Aguilar.*

I, Don Tomas de Agiular, sub-lieutenant of the army and secretary of the government of this place, and of the Province thereof, for his majesty, do certify that the preceding copy is faithfully drawn from the original, which exists in the secretary's office in my charge, and in obedience to order, I give the present in St. Augustine of Florida, on the eleventh of November, one thousand eight hundred and seventeen.

TOMAS DE AGIULAR.

We, Don Francisco Fatio, and Don Juan Huertas, members of this illustrious council constitutional, do certify, that the signatures affixed, in this expedient, are the same which the signers use, and in testimony thereof, we sign this in St. Augustine, on the 13th June, 1821.

FRANCISCO J. FATIO,
JUAN HUERTAS.

St. Augustine, 16th May, 1832.—I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Sup'r Court.*

No. 3.

Offered and Read by Claimant.

Being translation of the original petition for, and the order of survey, for the land claimed in this case.

TRANSLATION.

*Petition and order for Survey.*

PETITION.

HIS EXCELLENCY THE GOVERNOR.

Don Pablo Fontane, an inhabitant of this place, with due respect represents to your Excellency, that by the annexed certificate of the secretary of this government, it is manifest that a square of four miles of land was granted to him on a branch of the north head of the Indian river, and also its extensive locality, and he solicits your Excellency to be pleased to qualify the private surveyor, Don Andres Burgevin, in order that he may proceed to the survey, and delineation of the said tract, in order that in virtue thereof, he may obtain the corresponding plot of the said land. Therefore your petitioner

supplicates your Excellency to be pleased to provide accordingly, which favor he expects to receive from the justice of your Excellency. St. Augustine of Florida, 21st of August, 1820.

PABLO FONTANE.

DECREE.

ST. AUGUSTINE, 21st of August, 1820.

As the party solicits, the usual formalities being previously observed, and the adjoining proprietors being summoned.

COPPINGER.

In St. Augustine, on the same day, month, and year, I notified the preceding decree to Don Pablo Fontane, which I certify.

ENTRALGO.

On the same day, I notified to Andres Burgevin, that he had been appointed surveyor, whereupon he said that he would accept, and he did accept, the commission conferred on him, promising, under his oath, taken in the legal form, to exercise well and faithfully the functions of his commission, acccording to his best knowledge and understanding, and he signed, which I certify.

ANDRES BURGEVIN.

Before me,

JUAN DE ENTRALGO,
*Notary of the Government.*

ST. AUGUSTINE, 16th May, 1832.

I certify that the preceding, is a correct translation of the Spanish document annexed.

A. GAY,
*Translator and Interpreter of the Superior Court.*

No. 4.

Offered and read by Claimant.

Being translation of the original certificate and plat of survey.

TRANSLATION.

*Certificate and plat of Survey.*

I, Don Andres Burgevin, an inhabitant of this city and private surveyor, do certify that, in consequence of the order of government, issued on the twenty-first of August, 1820, having taken my dispositions to proceed to the survey and delineation of the tract of land

referred to in the said instance, which tract is situated in the territory of Musquito, northwestwardly of Indian river, another private surveyor, Don Robert McHardy, appeared and manifested to me, that the preceding plot which I have drawn, from the original thereof, is the true plot of the said tract of land granted to Don Pablo Fontane; and that the figure and dimensions are the same, and to them I refer in every respect; and in testimony thereof, for the security of the interested party, and in the discharge of my commission, I give the present, which I sign in St. Augustine of Florida, 18th September, 1820.

ANDRES BURGEVIN.

[Here is to follow the annexed plat of survey.]

St. Augustine, 16th May, 1832.—I certify that preceding is a correct translation of the Spanish document annexed.

A. GAY,
*Translator and Interpreter*
*of the Superior Court.*

No. 5.

SUPERIOR COURT—*East Florida.*

JOSEPH DELESPINE AND OTHERS
*vs.*
THE UNITED STATES OF AMERICA. } 10,240 acres.

*Testimony of Joseph S. Sanchez.*

August 22nd 1834.

*Joseph S. Sanchez*, sworn as a witness in open court, on behalf of the claimant, upon the original petition and order of survey, for the land claimed in this case, being presented to the witness, he states, that he has seen the signature of Governor Coppinger to a good many papers; witness further states, that he should take the signature of Governor Coppinger to the said original order of survey, to be in the hand-writing of Govenor Coppinger; witness further states, that he should take the signature of Pablo Fontane, affixed to the said original petition for order of survey, to be in the hand-writing of Pablo Fontane; and witness further states that the signature of Juan de Entralgo, to said original, he believes to be the signature of Juan de Entralgo.

*Testimony of George I. F. Clarke.*

*George I. F. Clarke*, sworn as a witness, in open court, on behalf of the claimants, upon the original petition and order of survey for the land claimed in this case, being presented to the witness, he states, that he believes the signature of the said order of survey, to be the signature of Governor Coppinger; witness further states, that he is acquainted with the hand-writing of Andrew Burgevin, and that the signatures of said Burgevin, to the oath and original certificate of survey, he believes to be the signature of Andres Burgevin; witness further states that he is acquainted with the hand-writing of Juan de Entralgo, and that the signature of the said Juan de Entralgo, to the said original order of survey, he believes to be the signature of Juan de Entralgo.

No. 6.

Offered and read by Claimants.

*Deed—Fontane to Delespine.*

STATE OF SOUTH CAROLINA.

Know all men by these presents, that I, Pablo Fontane, of the city of St. Augustine, in East Florida, but at present in Charleston, in the State aforesaid, for and in consideration of the sum of eight thousand dollars, to me in hand, paid by Joseph Delespine of St. Augustine, but now in Charleston in the State aforesaid, have granted, bargained, sold and released, and by these presents, do grant, bargain, sell and release, unto the said Joseph Delespine, all that piece, parcel, or tract of land, situate, lying and being in the province of East Florida, on the northwest head of Rio Ys, or Indian river, in the territory of Musquito, containing ten thousand two hundred and forty acres, be the same more or less, and which said tract of land was granted to me on the twenty-sixth day of June, one thousand eight hundred and seventeen, by the Spanish Government of East Florida, and for a more particular description, reference may be had to the plat and originals, in the archives of East Florida, and also a plan accompanying the same: together with all and singular the rights, members, hereditaments and appurtenances to the said premises, belonging, or in any wise incident or appertaining: to have and to hold all and singular, the premises before mentioned, unto the said Joseph Delespine, his heirs and assigns forever; and I do hereby bind myself, my heirs, executors and administrators, to warrant, and forever defend, all and singular, the said premises unto the said Joseph Delespine, his heirs and assigns, against myself and my heirs, and all other person or persons lawfully claiming or to claim the same or any part thereof, except five hundred acres, being an undivided part of said tract, deeded by me to John H. Etton, and Robbins.

Witness my hand and seal this sixth day of March, in the year of our Lord one thousand eight hundred and twenty-two, and in the forty-sixth year of the independence of the United States of America.

PABLO F. FONTANE, [SEAL.]

Signed, sealed and delivered in the presence of
WM. MCCORMICK,
THOS. WEBB HOLWELL.

STATE OF SOUTH CAROLINA, *Charleston District.*

Personally appeared before me William McCormick, who being duly sworn, made oath, that he saw Pablo F. Fontane, sign, seal, and as his act and deed delivered, the within deed of conveyance, and that he, together with Thos. W. Howell, signed their names as witnesses thereto to the due execution of the same.

WM. McCORMICK.

Sworn to before me, at the city of Charleston, this 6th day of March, 1822.

LEWIS ROUX, Q. M.

Recorded in my office, this twenty-sixth day of March, 1822, in Liber B, folios 55 and 56.

EDMUND LAW, *Alcalde.*

No. 7.

Offered and read by claimants.

*Deed—Delespine to Lazarus.*

THE STATE OF SOUTH CAROLINA.

Know all men by these presents, That I, Joseph Delespine, of the city of St. Augustine, in the Province of East Florida, but now in Charleston, South Carolina, State aforesaid, have granted, bargained, sold and released, and by these present do grant, bargain, sell and release unto the said Michael Lazarus one undivided half part of a piece, parcel, or tract of land, situate, lying and being in the Province of East Florida, on the northwest head of Rio Ys; alias Indian river, in the territory of Musquito, which said tract of land contains ten thousand two hundred and forty acres, be the same more or less, and was granted by the Spanish Government to Don Pablo F. Fontaine, on the twenty-sixth day of June, one thousand eight hundred and seventeen, and purchased by me of him, on the sixth of March, 1822, and for a more particular description reference may be had to the records of Florida, and a plot in my possession; together with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in any wise incident, or appertaining; To have and to hold all and singular the premises before mentioned unto the said Michael Lazarus, his heirs and assigns forever; and I do hereby bind myself, my heirs, executors and

*Testimony of George I. F. Clarke.*

*George I. F. Clarke*, sworn as a witness, in open court, on behalf of the claimants, upon the original petition and order of survey for the land claimed in this case, being presented to the witness, he states, that he believes the signature of the said order of survey, to be the signature of Governor Coppinger; witness further states, that he is acquainted with the hand-writing of Andrew Burgevin, and that the signatures of said Burgevin, to the oath and original certificate of survey, he believes to be the signature of Andres Burgevin; witness further states that he is acquainted with the hand-writing of Juan de Entralgo, and that the signature of the said Juan de Entralgo, to the said original order of survey, he believes to be the signature of Juan de Entralgo.

No. 6.

Offered and read by Claimants.

*Deed—Fontane to Delespine.*

STATE OF SOUTH CAROLINA.

Know all men by these presents, that I, Pablo Fontane, of the city of St. Augustine, in East Florida, but at present in Charleston, in the State aforesaid, for and in consideration of the sum of eight thousand dollars, to me in hand, paid by Joseph Delespine of St. Augustine, but now in Charleston in the State aforesaid, have granted, bargained, sold and released, and by these presents, do grant, bargain, sell and release, unto the said Joseph Delespine, all that piece, parcel, or tract of land, situate, lying and being in the province of East Florida, on the northwest head of Rio Ys, or Indian river, in the territory of Musquito, containing ten thousand two hundred and forty acres, be the same more or less, and which said tract of land was granted to me on the twenty-sixth day of June, one thousand eight hundred and seventeen, by the Spanish Government of East Florida, and for a more particular description, reference may be had to the plat and originals, in the archives of East Florida, and also a plan accompanying the same: together with all and singular the rights, members, hereditaments and appurtenances to the said premises, belonging, or in any wise incident or appertaining: to have and to hold all and singular, the premises before mentioned, unto the said Joseph Delespine, his heirs and assigns forever; and I do hereby bind myself, my heirs, executors and administrators, to warrant, and forever defend, all and singular, the said premises unto the said Joseph Delespine, his heirs and assigns, against myself and my heirs, and all other person or persons lawfully claiming or to claim the same or any part thereof, except five hundred acres, being an undivided part of said tract, deeded by me to John H. Etton, and Robbins.

Witness my hand and seal this sixth day of March, in the year of our Lord one thousand eight hundred and twenty-two, and in the forty-sixth year of the independence of the United States of America.

PABLO F. FONTANE, [SEAL.]

Signed, sealed and delivered in the presence of
WM. MCCORMICK,
THOS. WEBB HOLWELL.

STATE OF SOUTH CAROLINA, *Charleston District.*

Personally appeared before me William McCormick, who being duly sworn, made oath, that he saw Pablo F. Fontane, sign, seal, and as his act and deed delivered, the within deed of conveyance, and that he, together with Thos. W. Howell, signed their names as witnesses thereto to the due execution of the same.

WM. McCORMICK.

Sworn to before me, at the city of Charleston, this 6th day of March, 1822.

LEWIS ROUX, Q. M.

Recorded in my office, this twenty-sixth day of March, 1822, in Liber B, folios 55 and 56.

EDMUND LAW, *Alcalde.*

No. 7.

Offered and read by claimants.

*Deed—Delespine to Lazarus.*

THE STATE OF SOUTH CAROLINA.

Know all men by these presents, That I, Joseph Delespine, of the city of St. Augustine, in the Province of East Florida, but now in Charleston, South Carolina, State aforesaid, have granted, bargained, sold and released, and by these present do grant, bargain, sell and release unto the said Michael Lazarus one undivided half part of a piece, parcel, or tract of land, situate, lying and being in the Province of East Florida, on the northwest head of Rio Ys; alias Indian river, in the territory of Musquito, which said tract of land contains ten thousand two hundred and forty acres, be the same more or less, and was granted by the Spanish Government to Don Pablo F. Fontaine, on the twenty-sixth day of June, one thousand eight hundred and seventeen, and purchased by me of him, on the sixth of March, 1822, and for a more particular description reference may be had to the records of Florida, and a plot in my possession; together with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in any wise incident, or appertaining; To have and to hold all and singular the premises before mentioned unto the said Michael Lazarus, his heirs and assigns forever; and I do hereby bind myself, my heirs, executors and

administrators to warrant and forever defend all and singular the said premises unto the said Michael Lazarus, his heirs and assigns, against myself and my heirs and all other person or persons lawfully claiming or to claim the same, or any part thereof except five hundred acres, being an undivided part of said tract, deeded by said Fontane to John H. Etton and Robbins.

Witness my hand and seal, this eighth day of March, in the year of our Lord one thousand eight hundred and twenty-two, and in the forty-sixth year of the Independence of the United States of America.

JOSEPH DELESPINE. [SEAL.]

Signed, sealed and delivered in the presence of
WM. MCCORMICK,
THOMAS WEBB HOLWELL.

THE STATE OF SOUTH CAROLINA, *City of Charleston.*

Before me, Peter Prezvant, notary public and justice of the quorum, by letters patent under the great seal of the State, duly commissioned and sworn, residing and practising in the city and State aforesaid, personally appeared Mr. Joseph Delespine and acknowledged the signature to this instrument of writing to be his own proper hand, and sealed and delivered for the purposes therein mentioned; also appeared Mr. William McCormick, one of the subscribing witnesses, who solemnly swore that he saw Mr. Delespine sign, seal, and acknowledge this instrument to be his own free act and deed, and that Thomas Webb Holwell was also present and subscribed his name as a witness thereto in his presence.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal notarial, in the city and State aforesaid, this ninth day of March, 1822, and forty-sixth year of the independence of the United States of America.

PETER PREZVANT.
[SEAL.] *Notary Public, & Justice of the Quorum.*

Recorded in my office this twenty-sixth day of March, 1822, in liber B, folios 58 & 59.

EDMUND LAW.
*Alcalde.*

No. 8.

Offered and read by Claimants.

*Deed—Delespine to Drysdale.*

TERRITORY OF FLORIDA.

This indenture, made the thirty-first day of October, in the year of our Lord one thousand eight hundred and twenty-four, between Jo-

seph Delespine, of the city of St. Augustine, in the territory aforesaid, of the one part, and John Drysdale, of the same city, of the other part; witnesseth, that the said Joseph Delespine, for and in in consideration of the sum of seven thousand dollars, good and lawful money of the United States, to him, by the said John Drysdale, well and truly paid, at or before the ensealing and delivering of these presents, the receipt whereof is hereby acknowledged; hath granted, bargained, sold, aliened, remised, released, and confirmed, and by these presents, doth grant, bargain, sell, alien, remise, release, and confirm unto the said John Drysdale, his heirs and assigns forever, all the following undivided tracts, pieces, or parcels of land, situated and being in East Florida, that is to say, one undivided tenth part of all that certain tract, piece, or parcel of land, situated, lying, and being in East Florida aforesaid, on the west side of the river Ys, or Indian river, and opposite to Menith's Island in the said river, and extending to the west and south to the waters of the river St. Johns, and containing forty-three thousand acres; which said tract of land was originally granted to the said Joseph Delespine, in absolute property, by a grant or concession bearing date the ninth day of April, one thousand eight hundred and seventeen, by Don Jose Coppinger, then the governor of East Florida aforesaid, and was surveyed by George I. F. Clarke the late surveyor general of the Spanish Government, as appears by the plat and certificate of survey of the said land, bearing date the twentieth of February, one thousand eight hundred and twenty, made and signed by the said George I. F. Clarke; the following being the lines and dimensions of the said tract of land according to the said survey and plat of the said George I. F. Clarke, viz: the first line beginning at a palmetto tree on the bank of the said river Ys or Indian river, runs thence south sixty-five degrees five hundred and seventy-four chains, to a stake on the bank of the waters of the river St. Johns, thence along the bank of the said to another stake fixed at a distance from the first mentioned stake parallel with the termination of the second line, which second line commences at the palmetto tree at which the first line begins and runs thence along the bank of the said river Ys or Indian river, south, twenty-five degrees, east, six hundred and forty chains, to another palmetto tree on the bank of the said river, the third line runs thence south sixty-five degrees west to the stake secondly above mentioned, on the bank of the waters of the St. Johns: and also one undivided tenth part of all that certain other tract, piece, or parcel of land consisting of two leagues square, to each cardinal point of the compass, or ninety-two thousand one hundred and sixty acres, situated, lying, and being in East Florida aforesaid, about two miles to the north of the river Miamies, which lies to the northwest of Cayo Biscayno, and near Cape Florida; which said tract, piece, or parcel of land was granted in absolute property to one Juan de Anambide, by a grant bearing date on or about the twenty-second of March, one thousand eight hundred and fourteen, by the lawful authorities of the then province of East Florida, in conjunction with, and founded upon the previous resolution and order of the captain general of the island of Cuba,

and the provincial deputation of the said island for the distribution of public lands in the said island and the two Floridas, that a grant in absolute property should be made to the said Juan de Anambide of two leagues to each cardinal point of the compass of any land he might choose between the mouth of New river, and Punta Larga on the south, following the same course along the sea-shore; and also one undivided tenth part of all that certain other tract, piece, or parcel of land, consisting of four miles square, or ten thousand two hundred and forty acres, situated, lying, and being in East Florida aforesaid, on the northwest head of the river Ys or Indian river, which said last mentioned tract of land was originally granted, in absolute property, to one Pablo F. Fontane, on the tenth day of November, one thousand eight hundred and seventeen, by Don Jose Coppinger, then the governor of East Florida, and by the said Pablo F. Fontane sold and conveyed to the said Joseph Delespine; together with all and singular the hereditaments, privileges, rights, members, and appurtenances to the said several parcels of land, hereby granted and released or intended so to be, and every of them belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereon, and of every part thereof, and all the estate, right, title, claim, and demand of every kind whatever of the said Joseph Delespine, of, in, to, and upon the said several parcels of land, so hereby granted and released, or intended so to be, as aforesaid, and the appurtenances; to have and to hold, all and singular, the aforesaid three several pieces or parcels of land, and all and singular other the premises hereby granted, sold, and released, or so intended to be, unto the said John Drysdale, his heirs and assigns forever, and to his and their use and behoof forever. In witness whereof the parties to these presents have hereto set their hands and seals, the day and year first above written.

JOSEPH DELESPINE. [SEAL.]

Sealed and delivered in presence of us—

JOHN ALDEN,
ELIAS WALLEN.

TERRITORY OF FLORIDA, *St. Johns County*, ss.

Be it remembered, that on this ninth day of November, A. D. 1824, John Alden, a subscribing witness to the foregoing instrument of writing, came before me, the subscriber, clerk of the county court for the county aforesaid, and made oath that Joseph Delespine acknowledged the above in his presence, to be his act and deed for the purposes therein mentioned; whereupon I have recorded the same.

Witness my name the day and date above written.

JAMES S. TINGLE.
*Clerk.*

TERRITORY OF FLORIDA:

Know all men by these presents, that I, Frances Delespine, the wife of Joseph Delespine, of the city of St. Augustine, and who is a party to the aforegoing deed of indenture for and in consideration of the sum of ten dollars, to me, in hand, well and truly paid, by John Drysdale, also of the said city of St. Augustine, and who is also a party to the said deed of indenture, have granted, remised, released, forever quit claimed, and confirmed, and by these presents, do grant, remise, release, forever quit claim, and confirm unto the said John Drysdale and to his heirs and assigns forever, all my estate, right, title, interest, claim, and demand of every kind whatsoever, both at law and in equity, and also all the estate, right, title, interest, claim, and demand, of every kind whatever, both at law and in equity, to which I can, may, or shall at any future time be entitled, in whatever way or manner, or by whatever means the same may accrue to me, as the wife of the said Joseph Delespine; and I do further by these presents release, renounce, relinquish, and forever quit claim unto the said John Drysdale and to his heirs and assigns forever, all and all manner of dower, right, title, and claim of dower which I now have, and to which I shall, may, or can at any time hereafter have or make, of, in, to, out of, or upon the lands and tenements, in and by the aforegoing indenture, conveyed, granted, and released to the said John Drysdale, or intended so to be, thereby. In witness whereof I have hereto set my hand and seal the eighteenth day of December, one thousand eight hundred and twenty-four.

FRANCES DELESPINE. [SEAL.]

Sealed and delivered in the presence of us—

JOHN M. SANCHEZ,
FRANCIS R. SANCHEZ.
1824, Dec. 20th, proven by F. R. Sanchez.

TERRITORY OF FLORIDA,
CITY OF ST. AUGUSTINE.

I, Frances Delespine, the wife of Joseph Delespine of the aforesaid city of St. Augustine, do, by these presents, declare and make known, that the renunciation and relinquishment of dower in, to, out of, and upon the lands and tenements mentioned in above deed, *poll* by me executed, and intended thereby to be made, was and is made freely and voluntarily, and without any compulsion, constraint, apprehension or fear of, or from my said husband, the said Joseph Delespine: In witness whereof I have hereto set my hand and seal, the eighteenth day of December, one thousand eight hundred and twenty-four.

FRANCES DELESPINE, [SEAL.]

I certify that I examined the said Frances Delespine privately and apart from her said husband, as to the truth of the above declaration; and that after said examination, she, the said Frances Delespine, also separately and apart from her said husband, made, signed, and sealed the said declaration in my presence.

JOHN M. SANCHEZ,
*Justice of the Peace.*

TERRITORY OF FLORIDA,
COUNTY OF ST. JOHNS. } ss:

Be it remembered, that on the 20th day of December, 1824, Francis R. Sanchez, a subscribing witness to the foregoing relinquishment of dower, came before me the subscriber, clerk of the county court for the county aforesaid, and made oath, that Frances Delespine in his presence, signed, sealed, and acknowledged the same as and for her act and deed for the purposes therein mentioned—whereupon I have recorded the same. Witness my name the day and year above written.

JAMES S. TINGLE, *Clerk.*

No. 9.

Offered and read by U. States, being the Testimony of Antonio Alvarez, taken under a commission in the case of John Breward, vs: the United States, and offered and read in this case, on the part of the United States, the same being so copied as to be made applicable thereto, to wit:

*Deposition of Alvarez, in Breward's Case.*

DISTRICT OF EAST FLORIDA, *Superior Court, St. John's County.*

THE UUITED STATES,
*ads:*
JOSEPH DELESPINE & OTHERS. } Land Claim 10,240 acres.

Interrogatories to be propounded to Antonio Alvarez, Esquire, a witness to be sworn and examined on behalf of the United States, before Elias B. Gould and John C. Cleland, Esquires.

First. Are you a native of East Florida or not?

Second. What is your age?

Third. How long have you resided in the city of St. Augustine, in East Florida?

Fourth. Did you hold any office in East Florida, before the transfer of that province to the United States? If you did, please to state what office, and when and how long you discharged the duties of such office.

Fifth. Did you at any time act as clerk in the governor's secretary office, or in the office of the escribano or not? If you did, please to state which, when, and how long.

Sixth. In what office were concessions of land made and kept in East Florida, before the transfer of that province to the United States?

Seventh. In what office were royal titles (real titles) made and kept in East Florida, before the transfer of said province to the United States?

Eighth. In what office should the papers now be found deposited, which are referred to in the 6th and 7th preceding interrogatories? Is or is not the public archives the proper place of deposit for such papers?

Ninth. Are you the keeper of the public archives of East Florida or not? If you are, please to state how long you have held said office?

Tenth. Please to name the several persons who held and exercised the office of governor of the province of East Florida between the years 1784 and 1821, and the time when each of said persons entered upon the discharge of his duties as such governor, and when they respectively ceased to discharge the said duties?

Eleventh. Is there any order on file in the said archives under your charge, from the King of Spain, or from the council of the Indies, requiring said governor to render an account of his administration during the time when he held and discharged the duties of said office as governor as aforesaid? If there is, please to state to which of said governors said order was directed, and annex to your answer a copy thereof.

Twelfth. Were any of said governors ever required to render such account? If yea, state which of them.

Thirteenth. Did any one of said governors ever render such an account? If they did, please state which of them, when it was made, and particularly whether such account contained a statement of the number of grants or concessions of land, made by said governor during such administration, with the name (or names) of each grantee (or grantees,) and the number of acres of land granted to each?

Fourteenth. Is there any copy of such an account made by any of said governors, now on file in the archives, under your charge? If there is, please annex a copy thereof to your answer.

Fifteenth. Did any of said governors ever undergo a residencia in said province. If yea, which of them, and when.

Sixteenth. Did any of said governors ever render any account to the King, Captain, General, Intendant of Cuba, or any other officer, of the lands granted by him, except the single case of the exchange of lands for a schooner with Juan Russel? If they did, please to state which of them, and of what said account consisted, and state also the particulars of the case of Juan Russel.

THOS. DOUGLAS,
*U. States Attorney.*

SUPERIOR COURT, *District of East Florida.*

THE UNITED STATES,
*ats:*
JOSEPH DELESPINE & OTHERS. } Land Claim, 10,240 acres.

The answers of Antonio Alvarez to the interrogatories and cross interrogatories hereunto annexed, taken before the commissioners appointed for that purpose, in behalf of the United States.

To the first interrogatory, witness answers, I am a native of East Florida.

Second. To this he answers, my age is forty-two years.

Third. To this he answers, St. Augustine has always been my residence. I was absent for sometime in 1809 and 1810, in the Havana.

Fourth. To this he answers, I was clerk in the government secretary's office from 1807 to the change of government, during which time I was absent in the year 1809, and part of 1810, and parts of 1814 and 1815.

Fifth. To this he answers, I was clerk in the government secretary's office, as stated in the preceding answer. I also acted as clerk in the office of the escribano for a few months in the year 1814.

Sixth. To this he answers, concessions of land were made and kept in the office of the secretary of the government.

Seventh. To this he answers, royal or real titles were made and kept in the office of the escribano.

Eighth. To this he answers, the proper place for the deposit of such papers, is the office of the public archives.

Ninth. To this he answers, I am the keeper of the public archives: and I have held the office since 1829.

Tenth. To this he answers, Zespedas from 1784 to 1790; Quesada from 1790 to 1796; White from 1796 to 1811; Estrada from 1811 to June, 1812; Kendelan from 1812, I believe to May 1815; Estrada the balance of 1815, and Coppinger from 1816 to the change of flags. My knowledge of the time of the government of Zespedes and Quesada is derived from the information I obtained in the office of the secretary of the government.

Eleventh. To this he answers, I know of no such order.

Twelfth. To this he answers, I know of none.

Thirteenth. To this he answers, none of the governors made such account.

Fourteenth. To this he answers, there is no such document on file in my office.

Fifteenth. To this he answers, I know of no governor of East Florida, who underwent such residencia.

Sixteenth. To this he answers, the governors of East Florida never rendered an account of the lands granted by them, except in the case of the exchange of four thousand acres of land for a schooner, with John Russell.

ANTONIO ALVAREZ.

TERRITORY OF FLORIDA, } ss:
COUNTY OF ST. JOHNS. }

We, whose names are hereunto subscribed, commissioners named in the annexed commission, do certify, that after being sworn ourselves, we did examine the witness named in said commission, under oath, and his answers to the interrogatories and cross interrogatories annexed to said commission, are truly and correctly herein set forth. Given under our hands at St. Augustine, the 6th August, 1834.

JOHN C. CLELAND,
E. B. GOULD,
*Commissioners.*

No. 10.

Offered and read by U. States.

Being the testimony of Antonio Alvarez, as taken under commission in the case of John W. Lowe and others, vs: The United States, and offered and read in this case, on the part of the United States, the same being so copied as to be made applicable thereto, to wit:

*Deposition of Alvarez in Lowe's Case.*

DISTRICT OF EAST FLORIDA, *Superior Court.*

THE UNITED STATES,
*ats:*
JOSEPH DELESPINE & OTHERS. } Land Claim, 10,240 acres.

Interrogatories to be propounded to Antonio Alvarez, Esquire, Keeper of the Public Archives of East Florida, a witness, to be sworn and examined before John C. Cleland, Esqr., a Justice of the Peace.

First. Are there any (royal order) royal orders from the King of Spain, or any order or orders from the Council of the Indies, the Captain General, or Intendant of the Island of Cuba, providing for the granting of lands in East Florida, on file in your office, except the royal orders of the 29th October, 1790, and the royal order of July 7th, 1815, or not? If there are, please to name them, and annex a copy thereof to your answer.

Second. Are the royal orders dated Havana, October 15th, 1790, and published in Clarke's land laws, page 996, and the one dated Havana, July 7th, 1815, and published in the same book, at page 1010, the same that you have first mentioned above or not? Please to state particularly whether all the grants or concessions of land in East Florida, made since 1790, were made under either one or the other of these two last mentioned royal orders or not, and if not, under what royal order were they made?

Third. Was it the duty and the practice of the governors of East Florida to file in the office of the escribano of that province, [or in some other office, and which,] all the orders which they respectively receive from the King of Spain, or from any of their superior officers, relative to the granting of lands in said province, or not?

Fourth. Were you acquainted with the laws and usages of the government of East Florida, before the transfer of that province to the United States, or not?

Fifth. When the governor of East Florida referred any matter of judicial enquiry in relation to lands in which the King of Spain might have an interest, to the Auditor of War for his report, and said auditor reported thereon, and the governor made a decree approving such report, and requiring it to be complied with; was or was not the said decree, according to the laws and usages aforesaid, conclusive as to all the matters and things contained in said report.

Sixth. Was or was not such decree held and considered by the tribunals of the province aforesaid, as of the highest judicial autority, and conclusive upon all the matters embraced by such report, unless the same was reversed by the King, or by the said governor himself, upon a review thereof.

THOMAS DOUGLAS,
*United States Attorney, &c.*

JOSEPH DELESPINE & OTHERS,
*vs.*
THE UNITED STATES.

Objections and Cross Interrogatories.

We object to so much of the second interrogatory as calls for an answer from the witness to the following inquiry, to wit: "Whether all grants and concessions of lands in East Florida, made since 1790, were made under either one or the other of these two last mentioned royal orders or not? and if not, under what royal order were they made?"

We object to this enquiry, because it is an attempt to prove the contents of grants or concessions by parol. The grants or concessions themselves in writing, in the office of the public archives, are the best and only legal evidence of their contents; and of these certified copies are authorised and directed by law, or in a proper case under the mandate of the court, the original themselves may be taken from their depository and exhibited in evidence. No parol testimony, no inference from, or construction of their contents, is admissible from any witness.

We object to the enquiry also, because it calls for evidence wholly irrelevant to this case, to the issue before the court; to the grant now in question, grants in other cases, and the orders under which made, are foreign to, and not legal and pertinent evidence in this case.

First cross interrogatory. If, in answer to the third interrogatory, you undertake to say what was the duty and practice of the governors of East Florida, as to the matters enquired of in the interrogatory, be pleased to state how you acquired a knowledge of the duty of these governors, and how you know what was their practice, as to all the orders which they respectively received, as to the granting of lands.

Second cross interrogatory. If you undertake to give any opinion upon the law questions propounded to you in the fifth and sixth interrogatories, state your means of knowledge, and upon what principles your opinion is founded.

We object to the 5th and 6th interrogatories, that they call for the opinions of the witness who is not a lawyer, upon mere questions of law.

JOHN DRYSDALE, *for Claimants.*

SUPERIOR COURT, *Eastern District of Florida, St. Johns County.*

THE UNITED STATES, *ads:* JOSEPH DELESPINE & OTHERS. } Land claim, 10,240 acres.

The answers to the interrogatories propounded to Antonio Alvarez, keeper of the public archives of East Florida, a witness examined in the above cause, the said Antonio Alvarez being first duly sworn, taken in behalf of the United States.

To the first interrogatory, witness answers, there are none to my knowledge.

Second interrogatory. Witness answers, I have never read Clarke's land laws. I believe that all the grants of land made in East Florida since 1790, are founded upon the royal order communicated to this government on the 29th of October, 1790, and the royal order of the 29th of March, 1815.

Third interrogatory. Witness answers, it was the practice to file in the secretaries office, all official communications received by the governors, and it was considered their duty to do so.

Fourth interrogatory. Witness answers, I am not acquainted with the laws, but I am of some of the usages.

Fifth interrogatory. Witness answers, as far as I know, all the decrees of the governors of East Florida, relating to lands with or without the report or advice of the auditor of war, were here considered conclusive, except when the governors themselves referred the same to a higher authority; but I cannot say any thing with respect to the law on this subject.

Sixth interrogatory. Witnes answers, to this interrogatory I answer the same as in the preceding one.

Cross Interrogatories.

First cross interrogatory. Witness answers, while I was a clerk in the government secretaries office, it was the practice to file all the official communications handed by the governors to the secretary, but I do not know whether the governors retained or not in their possession any official communications; it was considered the duty of the governors to hand them to the secretary, but I know of no law respecting this subject.

Second cross interrogatory. Witness answers, I have stated, and I now repeat, that I know nothing about the law on this subject.

ANTONIO ALVAREZ.

Sworn to and subscribed before me this 14th day of August, A. D. 1834.

JOHN C. CLELAND,
*Justice of the Peace, and Commissioner.*

No. 11.

Offered and read by United States.

Being the testimony of Antonio Alvarez, with the documents thereto annexed, as taken under commission in the case of Oliver O'Hara, vs. the United States, and offered and read in this case, on the part of the United States; the same being so copied as to be made applicable thereto, to wit:

DISTRICT OF EAST FLORIDA, *Superior Court.*

*Deposition of Alvarez in O'Hara's Case.*

THE UNITED STATES *ads.* JOSEPH DELESPINE and others. } Land claim 10,240 acres.

Interrogatories to be propounded to Antonio Alvarez, Esquire, keeper of the public archives of East Florida, on behalf of the United States, before John C. Cleland, Esquire, a justice of the peace.

First. Are there any royal titles on file in your office which were given by any governors of East Florida conveyed the title to the lands to the grantee or grantees on account of services rendered by such grantee or grantees, or on account of losses sustained by such grantee or grantees, during the insurrection which took place in said province in the years 1812 & 1813, or at any other time, or not?

Second. If you answer the preceding direct interrogatory in the affirmative, please to examine such royal titles particularly, and state the time when the first of such royal titles was made, and annex a copy thereof to your answer to this interrogatory.

Third. Please to examine your office and ascertain to whom the largest quantity of land was confirmed by a royal title in said province, previous to the year 1816. State to whom said royal title was made, and annex a copy thereof to your answer to this interogatory.

Fourth. Please to state the quantity of land embraced in a Spanish caballeria, as known or generally understood in said province, before the transfer thereof to the United States.

Fifth. Was it generally considered and understood to be thirty-three and one third acres, or not?

SUPERIOR COURT, *District of East Florida.*

THE UNITED STATES *ads.* JOSEPH DELESPINE and others. } Land claim 10,240 acres.

The answers to the interrogatories propounded to Antonio Alvarez, Esq , keeper of the public archives of East Florida, a witness examined in the above cause, the said Antonio Alvarez being first duly sworn.

To the first interrogatory, witness answers; there are on file in my office original royal [real] titles given as a reward for services rendered the Spanish Government in East Florida, during the insurrection in the years 1812 and 1813, and afterwards. I believe there is no specific title made as a payment for losses sustained.

Second interrogatory, witness answers; the date of the first original royal [real] title in my office for services is the 20th December, 1815, and a copy of said title is hereunto annexed.

Third interrogatory, witness answers; the largest grantity of land confirmed by a royal [real] title previous to the year 1816, was to John McQueen. A copy of which is hereto annexed.

Fourth interrogatory, witness answers; thirty-three and one-third acres.

Fifth interrogatory, witness answers; yes.

ANTONIO ALVAREZ.

Sworn to and subscribed before me this 15th day of August, A. D. 1834.

JOHN C. CLELAND,
*Justice of the Peace and Commissioner.*

*Documents referred to in said Deposition.*

Documents referred to in the foregoing deposition.

Title of property of one hundred acres of land in favor of Jose and Miguel Andrew.

Don Juan Jose de Estrada, lieut. colonel of the royal armies,

sergeant major of the city of Havanna, civil and military governor and chief of the royal exchequer, pro tem. of this city of St. Augustine of Florida and its province: whereas, in royal order of the twenty-ninth of March of the present year, his majesty has been pleased to approve the concessions and rewards proposed by my predecessor the brigadier Don Sabastian Kindelan, for the officers and soldiers of the regular army, as well of the militia of this province, who aided with their good services to the defence of it in time of rebellion, one of those favors being the distribution of lands in proportion to the number of family that each individual might have; that Jose and Miguel Andrew, artillerymen of the company of militia of this city, having presented themselves soliciting jointly one hundred acres of land, fifty for each one, at the place called the chimneys, known as Governor Grant, bounding on the north by lands of Lazaro Ortega, on the south by vacant lands, on the east by Guana Creek, and on the west by the North river, there were granted to them by my decree of the thirteenth instant, had in conformity with what I was advised on the subject by his lordship, my auditor of war, as appears by the proceedings which exist in the escribano's office; therefore I have thought proper to grant, as in the name of his majesty I do grant, to the aforesaid Jose and Miguel Andrew, the one hundred acres of land aforesaid, without injury to third persons, for themselves, their heirs and successors, in absolute property, and in issuing to them, as by these presents I do, the corresponding title, by which I separate the royal exchequer from the right and dominion which to said land it had, and I cede and transfer it to the aforenamed Jose and Miguel Andrew, their heirs and successors, that in consequence thereof they may possess it as their own, use and enjoy it free of incumbrance, with all its inlets, outlets, uses, customs, rights, and services, which it had, has, and of right and in law thereto appertain and might belong, and it being their will, they may sell, cede, transfer, and alienate it, as may best suit them. To all of which I interpose my authority, as far as I can and of right ought to, in virtue of the will of the sovereign.

Given under my hand, and countesigned by the undersigned escribano, pro tem. of the government and royal exchequer of this city of St. Augustine of Florida, the twentieth of December, one thousand eight hundred and fifteen.

Signed, JUAN JOSE DE ESTRADA.

By order of His Excellency

JUAN DE EUTRALGO,
*Escribano pro tem. of the Govt. and Royal Exchequer.*

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
*In. & Tr. Sup. Court E. D. F.*

Title in favor of Don Juan McQueen, of ninety-eight caballerias and eight acres of land, at the plantation called San Juan Nepomuceno.

Don Eriquè White, colonel of the royal armies, civil and military governor of the city of St. Augustine of Florida, and its province, by His Majesty; whereas in royal order communicated to this government, on the twentieth of October, one thousand seven hundred and ninety, by the captain general of the island of Cuba, and the two Floridas, it is provided among other things, that to those strangers, who of their own accord, should present themselves to swear vassalage to our Sovereign, there should be granted and surveyed, lands gratis, in proportion to the workers that each family might have; that Don Juan McQueen, captain of militia and commander of them upon the rivers St. Johns and St. Marys, having presented himself and taken the customary oath, he solicited of the government, and there were granted, surveyed, and delivered to him, among other lands, ninety-eight caballerias and eight acres of land, at the plantation called San Juan Nepomuceno, as a part of those corresponding to him, which land is known and distinguished under the following dimensions and lines. The first line runs south, twenty-two degrees west, begining at a pine, marked with a cross, on the margin of the river St. Johns, and ends at a stake with the same mark, bounding on the lands of Don Thomas Sterling, containing in measurement one hundred and forty chains; the second runs west, begins at said stake and ends at a pine with the same mark, having in measurement one hundred and fifty-five chains; the third line runs north, begining at said pine and ends at another with the same mark of a cross; its measurement is of one hundred and sixty chains; the fourth runs west, commencing at said pine, and ends at another with the same mark, containing in its measurement one hundred and ten chains; the fifth runs north, beginning at the pine referred to, and ends at a stake with the same mark; its measurement is one hundred and ten chains; the sixth runs to the east, beginning at the aforesaid stake and ends at a pine with the same mark, containing in measurement eighty chains; the seventh runs north fifty degrees east, beginning at the pine referred to and ends at a cypress marked with the same mark of a cross; it has in measurement forty chains; its front runs partly on the river St. Johns and partly on McGirt's creek, forming an irregular figure divided by various creeks, as appears from the certificate given by the captain, Don Pedro Manot, commissioned judge for said distribution and measurement of lands, dated the fourteenth of January, one thousand seven hundred and ninety-two, and its corresponding plat, executed by Don Samuel Eastlake, who was surveyor at said measurement; and whereas there had been no title whatever issued to him for proof and security of his dominion to the said land, in the form that it was executed to others; that there has already elapsed more than the ten years of uninterrupted possession to obtained the useful and direct dominion to the aforesaid lands and in absolute

property, having built houses upon, and cultivated them, and finally complied with all the other conditions which the government established for the grants and concessions of this nature, apparent in the title issued to other settlers, as is stated in the proceedings moved by the interested, soliciting to have issued to him the corresponding titles, to the land which he has already measured and bounded, and of which he is in possession: therefore and in consideration of all of which, having been previously advised by his lordship, my lieut. auditor of war and assessor general, I have thought proper to grant to him, as in the name of His Majesty and of royal justice, which I administer, I do grant to the aforesaid Don Juan McQueen, the aforesaid ninety-eight caballerias and eight acres of land of which the said plantation is composed, for himself his heirs and successors, in absolute property, and in issuing to him as by these presents I do, the corresponding title, by which I separate the royal exchequer from the right which to said land it had, and I cede and transfer it to the aforesaid McQueen, his heirs and successors, that in consequence thereof they may possess it as their own, use and enjoy it free of all incumbrance, with all its inlets, outlets, uses, customs, rights, and services, which it had, has, and in right and law thereto appertained and might belong, and it being their will, they may sell, cede, exchange, transfer, and alienate them, as may best suit them, in virtue of the royal order already cited. To all of which I interpose my authority as far as I can and of right ought to.

Given under my hand and countersigned by the undersigned escribano of His Msjesty and of the government and royal exchequer of this city of St. Augustine of Florida, the twenty-seventh of February, one thousand eight hundred and four (interlined) to the aforesaid Don Juan McQueen, valid.

Signed, EURIQUE WHITE.

By order of His Excellency

JOSE DE ZUBIZARRETA.

*Escribano of the Govt.*

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
*Interpreter & Translator*
*Superior Court, E. D. F.*

No. 12.

*Document in Russel's Case.*

Offered and read by the U. States.

TRANSLATION.

Under date of the 14th of June last, His Excellency the Minister of the Royal Domain, tells me what follows:

"I have given to the king an account of your Excellency's letter No. 9, of the 20th of November last, in which you inform of what was directed to you by the governor of East Florida on the occasion of has having given to Don Juan Russel one thousand acres of land in exchange for a schooner which he wanted for the royal service, and which with all its appurtenances, was valued two thousand and six hundred dollars. His Majesty being informed of the whole transaction has been pleased to approve, for this time only, the said determination, in consideration of the absolute want of funds in the said province, and commands me to charge you again, as I do charge you, to comply with the provisions of the royal orders of the 14th of November of 1804, and of the 31st of March, 1806, which prohibit the alienation of the royal lands, which was made in favor of foreigners, and which provisions ought to be complied with rigorously in future. This by order of His Majesty, I communicate to your Excellency for your knowledge and government."

And I communicate the same to your Excellency for the corresponding effects on your part. God preserve your Excellency many years.

Habana, 4th March, 1815.

APODACA.

HIS EXCELLENCY, the GOVERNOR of East Florida.

St. Augustine 21st November, 1829. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Superior Court.*

And afterwards at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit: on Tuesday, the thirty-eighth day of the said term, and the twenty-fifth day of the month of November, the following entry of record was made in this cause, to wit:

*Continued for further Proof.*

JOSEPH DELESPINE, AND OTHERS
*vs.*
THE UNITED STATES OF AMERICA. } Land claim, 10,240 acres.

This case having been heard and submitted to the court, and the court having examined the same, doth hereby order that this cause be continued, with leave to the parties to introduce further proof therein.

And afterwards, before the superior court for the district of east Florida, holden at the court-house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-five, to wit: on Thursday, the seventh day of the said term, and the twenty-third day of said month, the following entry of record was made in this cause, to wit:

*Further Proof Offered.*

JOSEPH DELESPINE, AND OTHERS
*vs.*
THE UNITED STATES OF AMERICA. } Land claim, 10,240 acres.

This day came, as well the counsel for the said claimants, as the counsel for the United States, and this cause having been continued after the hearing thereof, at the last July term of this court, for further proof; the counsel for the said claimants, this day, offered in evidence, the testimony of Joseph S. Sanchez, Bernado Segui, Zephaniah Kingsley, George I. F. Clarke, John M. Fontane, John Rodman, John A. Cavedo and Fernando M. Arredondo, taken in the case of Elizabeth Wiggins, against the United States, so far as the same relates to the manner of applying for and obtaining concessions for lands. The evidence of the concession or grant delivered to the party; as to Agiular's having been secretary of the Spanish Governernment; the duties of the secretary of government; the effect of his certified copy of concession, and its admissibility in Spanish tribunals, or by Spanish authorities as evidence; as to the manner of keeping the office of the archives before and after the cession, and by whom. And the counsel for the United States offered in evidence, the cross examination on the part of the United States, of the same witnesses, relating to the same subjects, under the agreement of counsel filed in said case of Elizabeth Wiggins.

No. 13.

SUPERIOR COURT, *East Florida.*

July Term, 1835.

JOSEPH DELESPINE, AND OTHERS
*vs.*
THE UNITED STATES. } Land claim, 10,240 acres.

Testimony of Joseph S. Sanchez, Bernado Segui, Zephaniah Kingsley, George I. F. Clarke, John M. Fontane and John Rodman, taken in open court, in the case of Elizabeth Wiggins against the United States, so far as the same relates to the manner of applying for, and obtaining concessions of lands; the evidence of the concession or grant derived to the party as to Aguilar's having been secretary, the duties of the secretary of government; the effect of his certified copies of concessions, and its admissibility in Spanish tri-

bunals and by Spanish authorities in evidence, and as to the manner of keeping the office of the archives, before and after the cession, and offered and read in evidence in this case, to wit:

*Testimony of Joseph S. Sanchez.*

OF JOSEPH S. SANCHEZ.

Joseph S. Sanchez, sworn as a witness in open court, on behalf of the claimants, states, that he is a native of this country and has constantly resided here, witness states that the usual mode under the Spanish Government here for a party wishing lands, was to petition the governor, setting forth the number of their family, this was under the royal order of 1790, and upon that memorial, or petition, a decree of the governor was made, either granting or rejecting the petition, and that decree was usually made in the office of the secretary of the government. Witness states that the original memorial and decree, were deposited in the secretary's office, and it was the general usage of the government, that the memorial and decree, should remain in that office; witness states that the evidence given to the party, or his right to the land granted, was a certified copy of the memorial and decree, made by the government secretary; witness states that, according to the usage and practice of the Spanish Government here, that a certified copy was received as complete evidence of the party's right to the land, and that the grant was made; and witness believes that that certified copy was considered by the Spanish tribunals here, as equivalent in all respects to the original; witness states that this certified copy, was always considered as sufficient authority for the surveyor general to lay off the land granted; witness states that he was here in 1821, at the time of the cession of this country to the United States, and that he has not been away from here, except once that he went to the Havana and several times to Tallahassee, as a member of the legislative council, and that he was here in 1822 and 23; witness states that, at the time of the cession of this country, there was a good deal of fear, that the original papers might be lost; the United States took possession of those papers in a very tumultuous manner; witness states that he recollects that Mr. Law, had charge of these papers, and thinks he took charge of them a short time after they were taken out of the hands of the Spanish authorities; they were kept by Mr. Law, in the hall, under the room, now occupied as a court room, and witness does not recollect that they were kept any where else by him; witness states that he was in the habit going into the office of the archives, while Mr. Law had charge of it, for four or five months, morning and evening; witness had an acquaintance in that office, a Mr. Cavedo; witness thinks there were a few temporary shelves put up in this room spoken of by him, but does not know whether these shelves were sufficient for all the papers in the office or not; there were some bundles of papers on the table, and some in some boxes in the room; witness did not think, at the time, that these papers were kept carefully; witness has seen papers blown from the bundles over the room: many of the bundles of the papers were kept

loose; witness states that he don't know that Law was at all precise as to the persons he permitted to come into the office; witness saw a good many persons in the office; witness states that he has been several times in the office, and found neither Mr. Law, or his deputy, and the windows and doors both open; witness states that this office was kept in such a manner, that nothing could be more easy than to abstract or take from it documents, if persons felt disposed to do so; witness says that this office was kept very carelessly, very much so indeed; witness states that the manner in which this office was kept, was a matter of anxiety and alarm to the inhabitants of this place, and he has heard persons, interested in land claims, express their alarm, that their papers might be lost from this office; witness states that he cannot say by what authority, these papers came into the possession of Mr. Law, whether they came into his possession in virtue of his office, as alcalde of this city, or not, and has never heard that he was under any pecuniary responsibility for the safe keeping of these papers; witness states that he thinks a Mr. Penn, who is now dead, had something to do with these papers, but whether as Mr. Law's deputy or not, he does not know; witness knows that these papers were in the possession of Mr. Geo. Gibbs and Mr. Tingle, together at one time, and believes that neither Mr. Gibbs, or Mr. Tingle, understood the Spanish language; witness states that the original memorials and decrees, were kept in separate sheets of paper filed away in bundles, in which way he thinks they are kept now.

Witness states, that he thinks in one, or two instances, he has seen persons searching for papers in the office of the archives while that office was kept by Mr. Law, which persons were not in any manner connected with the office, and that during the time these persons were thus searching, neither Mr. Law, nor his deputy, were present. Mr. Medicis, who is now dead, was one of the persons he saw thus searching for papers in this office; witness states, that be believes that concessions and decrees for land, were kept in the Spanish Government's secretary's office, upon loose sheets of paper filed away in bundles; witness states, that he thinks that it would have been perfectly easy for these persons, that were examining the papers in Mr. Law's office, to have abstracted them from that office, if they thought proper; there was nothing to prevent it.

Examined by United States Attorneys.

Witness states, that his opinion that a certified copy by the secretary, would be received by the Spanish courts, as full evidence, is founded on his knowleege of the usage of the Spanish Government; witness knows nothing about Spanish law; witness states, that persons wishing to obtain royal titles for their land, usually petition the governor, and attached to their petition, a certified copy, by the government secretary, of the memorial and decree, and this is the reason

that the witness thinks that this certified copy would be received by the Spanish Government as full evidence of the grant, and I suppose it was upon this evidence, the govenor usually made the royal title, and it is from this practice, the witness believes, that a certified copy would be received as evidence; witness states that he does not know of an instance, nor has he heard of one, where the royal titles had issued upon the certified copy of the concession by the government's secretary, when the original concession was not filed in the proper office; witness believes, that when individuals wished to transfer papers from one part of the Spanish dominions to another, from fear of losing them, would deposit the originals in some public office by permission of the government, certified copies of which, were received as evidence in any other part of the Spanish dominions, and witness does not know whether that certified copy would be received in evidence when it was known, at the time, that the original was not in the proper office; supposes it would not be received in evidence; witness states, that he thinks that he has picked up, in Mr. Law's office, some grants of land which were blown from the bundles in the office across the floor; there were some bundles of papers in some boxes. which were without tops, but the principal part of the papers in this office, were kept on open shelves; (when witness speaks of the principal part of the papers, he does not mean the principal part of the grants, but the principal part of the bundles of papers in the office;) witness does not know whether all the papers, received from the Spanish government, were in this office of Mr. Law's or not; but he did not think that there were as many papers in this office as he had seen in boxes, when they were taken from the Spanish Government; witness saw two boxes with papers in Mr. Law's office; these boxes were about four feet in length, and about three feet wide, and two feet high; these boxes were not quite half full of papers; witness can't say that the grants and concessions, in this province, would contain more papers than he saw in those two boxes; witness did not see these papers that he found on the floor of Mr. Law's office, blown from the shelves; there was no body in the office when he found them; he merely found them on the floor, and supposed they were blown from the shelves, but they may have been blown from the table; witness states, that the grants of lands which were in this office, were in bundles, and the strings to some of the bundles were loose, and the papers perfectly unconfined, some of the bundles had been opened in looking for papers, and had not been tied up again; witness saw them in that situation several times; witness was in this office every day; witness does not remember to have seen Mr. Law in the office, except when he came to sign papers which had been copied by his clerk, Mr. Cavedo; witness has been in the office several times and found neither Mr. Law, nor Mr. Cavedo, there; witness says, that he don't recollect whether Mr. Cavedo was in the office at the time he picked up these papers off the floor; he has, several times, picked up papers from off the floor, when no person was in the office, and sometimes when he came to the office, and found papers throwing about in this way, Mr. Cavedo

was there; witness states, that when he went into Mr. Law's office, and found no one there, he did not remain there long before Mr. Cavedo came in, some eight or ten minutes; and witness supposes that the way that the office came to be alone, was, Mr. Law would come into the office, not more, perhaps, than once a week, to sign copies of papers that had been made out by Mr. Cavedo, and having signed the copies, would retire, leaving the doors and windows open; witness states, that the windows were used as much as a place of entrance, as the door, and witness has entered the office through the windows, very frequently; the door was in the yard, and people did not take trouble to go round to it; witness found the door closed sometimes, but it was barely pulled to; witness states, that there were two windows in this office that opened into the street, and the door, from this office, opened into the yard under the piazza; witness states, that he thinks when Mr. Cavedo left the office, to be absent for any length of time, he always fastened the door and windows, as well as they could be fastened; and witness, himself, has assisted to do so; witness thinks that the door and windows of this office could not be securely fastened, the window shutters were very old, and any person could have pulled them open, by putting their fingers between the shutters; witness states, that he does not know that these papers that he saw blowing about the office, were papers that Mr. Cavedo had copied; they were such papers as he usually copied; they might have been papers which he copied, or they might have been blown off the shelves; witness states, that he does not know that the Mr. Medicis, that he saw in Mr. Law's office, was an associate of either Mr. Law, or Mr. Cavedo; he does not know that he was acquainted with Mr. Law, and was not intimate with Mr. Cavedo; witness don't know what he was searching for.

Examined by Claimant's Attorney.

Question. You said that the certificate of the government secretary attached to the memorial for a royal title, was the evidence on which such royal title was usually given. Have you not also understood that it was the evidence on which the land was surveyed to the grantee by the surveyor general?

Answer. The surveyor general, on the presentation of this certificate, always made the survey, and that certificate was evidence to him that the land was granted.

Question. Do you not understand that the certificate of the government secretary was full proof of all the facts which such certificate set forth?

Answer. Witness supposes so—it was always taken and believed so.

Question. Do you understand and mean to testify that the certificate of the government secretary was proof that the memorial was presented, and the decree passed by the governor, as set forth in the copies certified by the secretary?

Answer. Witness believes that they were always so accepted by the government; he never heard it questioned.

Question. Was not such certificate evidence of the original memorial and grant?

Answer. Witness says, certainly.

Question. Would not such certificate, in your judgment, and according to the usages in this province in Spanish times, be evidence, or proof, that the original memorial and decree were in the proper office at the time the certificate was given, though at some subsequent period they had been taken from it, or could not be found there?

[This question objected to by the counsel for the United States, and objection overruled by the court.]

Answer. Witness says he thinks they would, according to what he knows on the subject, but thinks they were usually taken.

Question. Had the grantee any right to the possession of, or any control over, the original?

Answer. Witness says, no.

Question. Could a certified copy of the original be obtained at any time from the secretary's office, so long as that original remained in that office?

Answer. Witness says, yes—he could get as many copies of the memorials as he pleased.

Upon inquiry, and on looking at the certificate of Tomas de Aguilar, attached to the memorial and grant in this case, witness says that the certificate of Aguilar attached to this grant is in usual form of such certificates.

Examined by United States Attorneys.

Question. Do you recollect a single instance in this province, while under the Spanish government, in which a certified copy of a concession was received in evidence and taken as proof that such a concession was made, when no original concession could be found in the office from which the copy purported to have been made?

Answer. Witness says, they may have occurred; does not know of any, of his own knowledge. Witness never heard of an instance where the originals were inquired after, when the certificate was exhibited.

Question. Do you recollect any usage of the Spanish government, by which such a certified copy, under the circumstances stated in the last preceding question, could have been received in evidence?

Answer. Witness says he does not recollect of any usage on the subject, except the usage, as already stated, of receiving them in evidence. Witness adds, that he supposes that it was always taken for granted that where the certified copy was offered, the original was in the office; and that he knows of no other instances where a certified copy was received in evidence, except those where they were presented to the surveyor general, or to the governor, on application for royal titles, and they were taken by them as evidence, without farther inquiry.

Witness states that it is his opinion that, where it was known that there was no original in the office, this certified copy would be received in evidence, unless the opposite party could prove that it was a forgery. Witness does not remember of a single instance where a certified copy was offered when there was no original in the office. Witness thinks a certified copy would be received, unless it was proven that there never was an original in the office, or that it was a forgery. Witness is now speaking of his opinion of the uage of the province. Witness does not know that an instance has occurred in Spanish times, where a certificate has been exhibited, that the opposite party has suggested that there had been no grant made; in Spanish times, the party alleging a forgery was required to prove it. Witness states that, where a party brought suit upon his grant, alleging it to be good, and the opposite party denying that it was so, the party alleging that it was not a good grant was required to prove that it was not so. Witness says he is talking of what the usage would be—he has never heard of such a case—and that he never heard of any such litigation as that spoken of by him above, in Spanish times. Witness states that the question never arose, to his knowledge, whether a grant was in or out of the office—the certified copies always spoke for themselves. Witness states that he does not recollect that he has ever heard of an original concession being lost in Spanish times, from the archive office.

On the testimony of Joseph S. Sanchez being read over to him, he desired to explain and correct that part of it in which he is made to say, "that he does not know whether the certified copy would be received in evidence when it was known at the time that the original was not in the proper office—supposes it would not be received in evidence." And he now says that his opinion is, that, where it was known that the original never had been in the office, the certified copy would not be received in evidence; but the certificate would be prima facie evidence that the original had been in the office.

By the Court.

Question. Do you know of any case having existed under the Spanish government where the certificate of the secretary was received as evidence, when it appeared that the original had never been in the office?

Answer. Witness says that he never heard of such a case, and does not believe that such a case ever existed.

[The counsel for the United States objected to all the testimony of this witness relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.]

Examined by United States Attorneys.

Question. Did not the regulations and usage of this province require the grantee to take possession of the lands granted within six months after the date of the grant?

Answer. I never heard of any fixed regulation—the governor's will, I believe, was superior, or equal, to any regulation, and he directed, as he pleased, when the party should take possession of the land.

Question. When the governor published his regulations, were they not considered in force and binding on the inhabitants till he changed them?

Answer. I can't say that the governors themselves stuck to their regulations—they were made for the governor's regulation, and the people had nothing do with them; the governor changed them whenever he thought proper.

Question. You say that the people had nothing to do with the regulations published by the governors: did they not obtain their grants under those regulations?

Answer. Yes, they did sometimes—sometimes native born Spanish subjects would apply to the governor for land, and he would refuse to grant it to them; that shows he did not mind his regulations, or that he considered himself bound by them.

Question. Do you know of any instance in which the governor made a grant contrary to the regulations? and if you do, please state the case.

Answer. I can't call any particular case to my mind just now—I do not recollect any particular case: I think the governor has granted lands to persons that had no slaves.

Question. Do you know of any other departure from the regulations than the one you have mentioned?

Answer. I do not recollect.

Examined by claimant.

Question. Did not the governors, agreeably to your understanding of the usage of this province, grant or refuse to grant lands for head rights, according to his own good will and pleasure.

Answer. I never heard of any other regulations, or heard of any other than the governor's will. I never heard his power disputed.

Examined by U. S. Attorneys.

Witness states that he never heard that the Spanish governors of this province were controlled by any law in the granting of lands; they granted lands as they pleased; the governors of this province were governed by their will alone; they were generally considered supreme. Witness never heard any one doubt the power of the governor in any instance.

Examined by claimant.

Question. Do you, or do you not mean, by your answer to the last preceding question, that their will was the supreme law of the province, and that no one in the province presumed to dispute it?

Answer. That's what I've said in my last answer.

Examined by U. States Attorneys.

Question. Were not the governors of this province under the control of the laws of the Indies, and the royal orders of the king, in all matters relating to the granting of land; and did they not strictly obey those laws and royal orders?

Answer. From what I've seen of the books containing the laws of the Indies, I think the governors were not bound by them or the royal orders, as I have known that the governors did not obey those laws; and I know many instances where the governor has refused to grant lands, where the parties were entitled to them under the laws of the Indies. I have known many instances, but I do not at this time recollect them. Witness qualified this answer by adding, the governors might have been bound by these laws, but they disregarded them in many instances.

Examined by the court.

Witness states that he does not know whether regular reports of the transactions of the government in this province, during Spanish times, were sent to Spain at stated periods.

Examined by U. S. Attorneys.

Question. Have you any other reason for believing that the governors of this province were not bound by the laws of the Indies, and the royal orders of the King, and that their will was the supreme law of the province, than you have given in your answer to the last preceding question?

Answer. He certainly could not be bound by any law, if he could arrest a person in the street without telling him for what, and imprisoning him and feeding him on bread and water, as he has done here, and nobody disputing his power here.

Question. Is it from your recollection of the fact, that the governors of this province sometimes refused to grant lands to persons whom you thought entitled to them, and of their having persons arrested in the street, and put in confinement, without telling them the cause of their arrest; that you had formed the opinion that their will was the supreme law of the land, and that he was not always governed by the laws of the Indies, and the royal orders of the King, in making grants of land?

Answer. Yes, it is from the circumstance that his will governed every thing, and nobody disputed it.

Question. What general law of Spain or royal order did the governor violate, in causing persons to be imprisoned, in the manner you have mentioned?

Answer. I never looked over the royal orders or the laws of the Indies till lately, and the opportunity I have had of seeing the orders, is from translating papers from the archive office, and he was not at all times governed by them.

Question. Do you know that the governor was satisfied that the persons to whom you say that he refused to grant lands, were entitled to grants of land, agreeably to the laws of the Indies?

Answer. He must have known that these persons were entitled to grants of land as the persons were native born citizens; the governor must have known these circumstances, and that they were entitled to grants of land.

*Testimony of Bernardo Segui.*

OF BERNARDO SEGUI.

*Bernardo Segui*, sworn as a witness in open court, on behalf of the claimant.

Question. Are you or not, a native of East Florida, and have you or not resided the principal part of your life in St. Augustine?

Answer. Witness says yes.

Question. In what manner, according to the usage and practice of the Spanish government, were concessions or grants of land applied for and obtained in East Florida?

Answer. Applied for by petition to the governor, and obtained by decree of the governor.

Question. What was done with the original memorial and decree or concession?

Answer. Kept in the secretary of the government's office.

Question. What evidence of the concession or grant was given to the party?

Answer. A certified copy of the original by the secretary of the government.

Question. What was the purpose for which the certified copy of the concession or grant was given by the grantee?

Answer. To show that he had the grant, and to prove in case of necessity, that the land was granted to him.

Question. Was or was not the certified copy of the concession or grant full and complete evidence of the original, and that it was in the proper office at the time the said copy was made?

Answer. Yes it was.

Question. Would or would not a copy of a concession or grant, properly certified by the government secretary, have been received by the courts of justice, and other authority of the Governent in Spanish times, as full and complete evidence, that the original concession or grant had been made?

Answer. Yes, the same as if it was the original itself. [The two last preceeding questions were objected to by the counsel for the United States, and objection over-ruled by the court.]

Question, Was, or was not, the copy of an original concession certified by the government secretary of the same force and effect, as was the copy of any act or deed, certified by the notary of the Spanish Government, according to your understanding of the usage of the Spanish Government here?

Answer. Yes, the same.

Question. Suppose it should have appeared in Spanish times, that the original of a concession or grant was not in the office, at the time the certificate was offered in evidence; what in such case would have been the effect of the certified copy, according to the usage of the province?

Answer. It would have been received as prima facie evidence, until it was proven that no grant was ever made.

Question. Have you, or not, had a great deal to do with the public offices in Spanish times?

Answer. Yes, I have.

Question. Have you, or not, held public offices under the govern ment in Spanish times?

Answer. Yes, I have.

Question. Are you not now the post master of this city?

Answer. Yes, I am.

Question. How many years have you been so?

Answer. I have been so over three years.

Question. Were you, or not, one of the commissioners on the part of the United States, at the treaty of Moultrie, with the Florida Indians in 1823?

Answer. Yes, I was.

Question. Was, or was not, the law pursued and practised by you as your profession in East Florida, prior to its cession to the United States?

Answer. I was a clerk in the notary public's office, and pursued the practice of advocating cases, but I was not a professional lawyer.

Question. Who was the government secretary of this province in 1815?

Answer. Thomas de Aguilar.

Question. How long had the said Thomas de Aguilar been secretary of the government of East Florida, before that time, and how long after it?

Answer. I can't tell how long previous, but he was secretary till the change of flags, and I think he was secretary from the year 1809 or 1810.

Question. Was it not one of the especial duties of the government secretary, to give out certified copies of concession or grants of land from his office?

Answer. Yes, it was.

Question. According to the usage of the province, was not the certified copy, by the government secretary, given to the grantee for the especial purpose of securing to him evidence of his grant?

Answer. Yes, that was the object.

Examined by United States Attorneys.

Question. How do you know that the certified copy of a concession would have been received as evidence of the existence of the original, in the proper office under the Spanish Government?

Answer. Because I have seen it received many times when I was clerk in the escribano's office.

Question. In what manner and under what circumstances were they received?

Answer. As a voucher in evidence to the facts set forth in a memorial.

Question. What was the nature of the memorial to which you allude?

Answer. I allude to any kind of a memorial, any part that might be set forth in a memorial, to be proven by the certificate of any legal officer.

Question. Do you recollect any case where a certified copy of a memorial, and decree for land, was ever received in evidence in the escribano's office; when it was known that there was no original of said decree and memorial, in the proper office of the Government?

Answer. I do not know of any such case.

Question. Do you remember any case, under the Spanish Government, in which a paper, certified by a secretary of the Government, as a copy of an original concession, was received in evidence, and taken as proof that an original had ever existed, when no such concession could be found in the office from which the copy purported to have been taken?

Answer. I do not recollect any case.

Question. If you remember no case, in which a certified copy of a concession was received, under the Spanish Government, as evidence that an original had existed, when no such original could be found in the proper office, how do you know what was the usage in such a case?

Answer. I do not recollect any such case.

Question. Do you know of any such usage?

Answer. I do not recollect of any such usage, whenever the certified copies by the secretary was offered in evidence, it was always considered that the original was in the office; and if there was no original in the office, it was a fact to be proved.

Examined by Claimant.

Question. If at the time of offering to use, as evidence, a certified copy of a concession or grant, made by the government secretary, it should have been suggested that there was then no original in the office, would that invalidate such certificate made at a prior date?

Answer. No, it would not have invalidated it at all.

Examined by United States Attorneys.

Question. Did you ever know such a case, as the one mentioned in the last question?

Answer. I recollect of one or two instances, I do not recollect the names of the parties to them; one of them was in the proceedings of a civil law suit, and I suppose, the proceedings of the case are on file in the office of the public archives; all the proceedings in Spanish courts were in writing.

Question. In what office did they occur, and at what time?

Answer. During the time I was in the office of the escribano, who was clerk of the court, these cases occurred. I was in the escribano's office from the years 1800 to 1815. I do not recollect the case or the names of the parties.

*Testimony of Zephaniah Kingsley.*

Of Zephaniah Kingsley.

Zephaniah Kingsley sworn as a witness in court on behalf of the claimant.

Question. How long have you been an inhabitant of East Florida?

Answer. Since the year 1803.

Question. Have you been acquainted in the manner in which public lands were granted in East Florida, in Spanish times?

Answer. Yes, I have. The manner, in all cases that I know of, is first by making a petition or memorial to the governor, dated and signed, setting forth the objects and wishes of the petitioner. It was then usual for the governor to put on the margin of the memorial an enquiry to the officer who had jurisdiction of the case, whether the facts set forth in the memorial were true or not—and according to the certificate of that officer, the governor made his decree.

Question. Upon this memorial or petition did the governor grant or concede the land petitioned for, to the petitioner?

Answer. Upon this petition the governor either conceded or refused the lands.

Question. Where was the memorial and decree of the governor kept, when he granted or conceded the lands petitioned for?

Answer. After they had gone through the government office, they were sometimes transferred to the escribano's office, but if they were not transferred to the escribano's office, they were kept in the secretary's office; and, if the party wanted a certified copy, it was

got from the escribano's office. I do not remember that I ever got a certified copy from the secretary's office; and the certificate usually contained the words "to serve in case of loss."

Question. Were not your titles which you had lodged in the escribano's office, always royal titles?

Answer. Yes.

Question. Do you or do you not know, that mere grants or concessions of land, not amounting to what are called royal titles, were kept in the office of the secretary of the government?

Answer. I do not know. My understanding is, that they might be kept in either office.

Question. Are you able to state that you ever saw a mere concession of lands verified by the certificate of the escribano?

Answer. I cannot call to my remembrance having seen one.

Question. Have you not seen many such concessions verified by the certificate of the secretary of the government?

Answer. I cannot particularly remember.

Question. Do you not know that there were two distinct offices kept here in Spanish times, in which documents, relating to the granting of lands, were deposited? And, if so, what were they called?

Answer. Yes. One of these offices was called the government secretary's office, and the other the escribano's office.

Question. By whom were documents from the office of the secretary of the government certified?

Answer. By the secretary of the government.

Question. Were the certified copies made by the government secretary according to your opinion of Spanish usage, evidence to prove the matters set forth in such certified copies?

Answer. Certainly—no other evidence was required, that I ever heard of.

Examined by United States Attorneys.

Question. You have said that you always received royal titles for the lands granted to you by the Spanish government—did you ever receive a royal title, until you had first obtained a concession from the government?

Answer. Never.

Question. Do you recollect any case in which a certified copy of a document or paper, purporting to be a concession for lands, was received in evidence and taken as proof that such a concession had been made by the governor, when search had been made in the proper office, and no such original concession could be found?

Answer. I never heard of such a case. I never heard of such certificate being doubted—it was considered as evidence whenever it was offered; there was no other evidence required than the certificate of the officer of the proper department.

Question. Do you recollect any case under the Spanish government in which the original grant or concession could not be found

in the office to which it properly belonged, after such grant or con cession had been made?

Answer. I never heard such a thing called in question.

Question. Under the Spanish government, if you had gone to the public archives, and, after strict examination, you could find no grant or concession to a certain individual, would you not consider that circumstance as conclusive evidence that no grant or concession had issued to such individual?

Answer. I never heard of an instance of that sort—that if a person told me he had a grant of lands in the office of the archives, and, on search being made, none could be found there, I would suppose that the person had told me an untruth—even the governor himself would not go farther than the officer's certificate.

Question. Do you mean, by what you have said, to answer the last question in the affirmative or negative?

Answer. I should not consider it conclusive, but a strong presumption, that such concession had never been made, as such examination could only have been made through the escribano or public officer, charged with the department, who might have overlooked it, or it might have been mislaid and not remembered, therefore admits of the possibility of its former existence. This is a conscientious answer to the question; and may either be considered positive or negative, according to the construction put upon it by those concerned.

Examined by Claimant.

Question. Suppose sir, that, after you had examined at the office of the archives, and found no grant there, a certificate of the secretary or escribano had been presented to you, setting forth and showing such grant, would you not consider it conclusive that such grant had been made by the government?

Answer. I certainly should consider it conclusive that the original had existed there, and had been mislaid.

Examined by United States Attorneys.

Question. In your last answer have you expressed your own opinion only, or are you speaking of the usage of the province under the Spanish Government; if of the usage of the province, how do you know it to have been the usage?

Answer. My opinion is derived from my own experience, combined with the usages of the province. I know it to be the usage from experience.

Question. Did you ever know an instance of the kind under the Spanish Government?

Answer. I cannot say that I remember any particular case of the kind at present.

Question. Then how can you speak of the usage?

Answer. The same as we speak of all other things; can't tell where we get our opinions, but from our knowledge.

Examined by Claimant.

Question. Are you acquainted with the manner in which the public office of the archives was kept after the cession?

Answer. Only transciently—when I came to town. I was never employed in the office.

Question. Be pleased to state how the said office was kept, so far as came under your observation, whether with care or otherwise?

Answer. My impression was, that it was not kept with care—there was no head to it.

Question. Were you ever in the office, while kept by Mr. Edmund Law?

Answer. I was in it once or twice while he was keeper, during his absence, when he was away at the North; I believe it was two years after the change of flags, before there was a regular keeper of the archives.

Question. Were the papers kept on shelves, or how were they kept?

Answer. As far as I observed they were kept in the greatest confusion; it appeared to me to be a resort for boys smoking segars and idle people.

Question. Was there or not great apprehension entertained by the Spanish inhabitants for the safety of their titles immediately after the cession?

Answer. I heard a general expression of that sort amongst all the people, and had a great deal of fear myself.

Question. Did or did not that fear result from the manner in which the office of the public archives was kept for sometime after the cession?

Answer. It did.

Question. Where was the said office kept at the time to which you have referrence?

Answer. In the room under the one now occupied as a court room?

Question. Was or was not the papers of the said office scattered about the office and loose on the tables and shelves?

Answer. They were generally in great disorder; they were not in any regular order.

Question. Could or could not any paper have been abstracted from the said office, if any person had been disposed to do so.

Answer. It was my impression that they could, and it was the general report that persons that had cases in the courts here at that time helped themselves and some of these papers were found among the effects of deceased persons.

The counsel for the United States object to the testimony of the witness as to rumor and report, and objection sustained by the court, and testimony incorporated in the record to be reviewed in case of appeal.

Question. Do you or not consider, from the manner in which the office was kept, that papers belonging to it were liable to destruction and loss as well as abstraction?

Answer. My impression is that any thing could be done in it; I do consider that they were liable to destruction and loss, as well as to abstraction.

The counsel for the United States objected to the foregoing question, and objection overruled by the court.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

Examined by the United States Attorneys.

Question. How long was Mr. Law keeper of the archives?

Answer. I am not able to say exactly; I think it was about two years from the time of the change of flags till there was a regular keeper.

Question. Who was the first regular keeper?

Answer. My impression is that Mr. Reynolds was the first regular keeper.

Question. Was not Mr. Cavedo present on those occasions when you visited the office?

Answer. I am not able to charge my memory as to any particular individual that was present; there appeared to be no regularity and only a parcel of boys.

Question. You know Mr. Cavedo personally and that he was a clerk of Mr. Law?

Answer. I know Mr. Cavedo personally, but I did not know him to be a clerk of Mr. Law.

Question. How often were you at the office?

Answer. Two or three times.

Question. What were the evidences of disorder you saw in the manner of keeping the office?

Answer. The papers laying about in disorder, and some of them in piles on the floor.

Question. Were not the persons whom you saw in the office engaged in examining the papers?

Answer. No. I did not perceive that they were, they appeared to be playing or amusing themselves; I did not see any of them employed in any official capacity.

Question. How were they playing or amusing themselves?

Answer. The same as boys usually do—smoking segars and fun.

Question. Were they small boys you saw smoking segars?

Answer. No; they were ordinarily sized boys, and some of them stout young men.

Question. Do you recollect the names of any of the young men or boys?

Answer. I cannot charge my memory with the names of any of them.

Question. How many persons did you find in the office?

Answer. I am not able to say.

Question. Do you recollect any impropriety or disorder of conduct among the persons you saw there?

Answer. I did not. No more than young men usually would. I saw no impropriety.

*Testimony of Geo. J. F. Clarke.*

OF GEO. J. F. CLARKE.

George J. F. Clarke sworn as a witness on behalf of the claimant:

Question. Were you or not the surveyor general for this province under the Spanish government? If you were, state how long.

Answer. Yes—From 1811 till the change of flags, in 1821.

Question. Are you acquainted with the manner of applying for, and obtaining concessions of land, while East Florida was under the Spanish government?

Answer. Yes—by petition to the governor, which he granted by a decree.

Question. State what was done with the decree of the governor.

Answer. The petition and decree remained in the governor's office.

Question. What evidence of the decree was given to the party?

Answer. A copy of that petition and decree, certified by the secretary.

Question. For what purpose was this certified copy given to the party?

Answer. As his evidence of the prayer of his petition being granted by the governor.

Question. Was the party entitled to the possession of the original memorial and decree, or had he any control over them?

Answer. They remained in the governor's office as a record; the party was not entitled to them.

Question. Were the certified copies made by the government secretary, according to your opinion of Spanish usage, evidence to prove the matters set forth in such certified copies?

Answer. Yes.

Question. Was or was not the copy of a concession, properly certified by the government secretary, full evidence that the original had been made, and was in the secretary's office at the time the certified copy was given?

Answer. Yes.

Question. Was or was not a copy of a concession, properly certified by the government secretary, full legal authority to you, as surveyor general, to survey to the party the lands granted to him by the concession?

Answer. Yes.

Question. Was it or not your uniform practice, as surveyor general, to act upon the copies of concessions, thus certified, as authority for surveying the lands conceded?

Answer. My impression is that any thing could be done in it; I do consider that they were liable to destruction and loss, as well as to abstraction.

The counsel for the United States objected to the foregoing question, and objection overruled by the court.

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Question. State what was done with the decree of the governor.

Answer. The petition and decree remained in the governor's office.

Question. What evidence of the decree was given to the party?

Answer. A copy of that petition and decree, certified by the secretary.

Question. For what purpose was this certified copy given to the party?

Answer. As his evidence of the prayer of his petition being granted by the governor.

Question. Was the party entitled to the possession of the original memorial and decree, or had he any control over them?

Answer. They remained in the governor's office as a record; the party was not entitled to them.

Question. Were the certified copies made by the government secretary, according to your opinion of Spanish usage, evidence to prove the matters set forth in such certified copies?

Answer. Yes.

Question. Was or was not the copy of a concession, properly certified by the government secretary, full evidence that the original had been made, and was in the secretary's office at the time the certified copy was given?

Answer. Yes.

Question. Was or was not a copy of a concession, properly certified by the government secretary, full legal authority to you, as surveyor general, to survey to the party the lands granted to him by the concession?

Answer. Yes.

Question. Was it or not your uniform practice, as surveyor general, to act upon the copies of concessions, thus certified, as authority for surveying the lands conceded?

Answer. Yes.

Question. Was or was not the copy certified by the government secretary equivalent to the original, as evidence of the party's title to the land?

Answer. Yes.

Question. Suppose it should appear, at the time the certified copy by the government secretary was offered in evidence, that no original could be found in the proper office, or be proved, except by such certified copy; would such certified copy still be received as evidence that the original had existed, as set forth in such certified copy?

Answer. I know of no case of the kind that has ever happened; but I have no doubt in my mind but that the certified copy would be as good evidence as the original.

Question. According to the usages of the Spanish government here, were not such copies, in the absence of the originals, received as equivalent to, and actually made, originals?

Answer. I don't know of an instance where there was a deficiency of the originals; but I have no doubt that the copy would be received—by some process, the copy would be made as good as the original.

Question. Had or had not the certified copy of a concession given by the government secretary the same force and effect as a certified copy given by the notary of the government, as evidence?

Answer. Yes—they both had the same effect; they were both like evidence.

Examined by United States Attorneys.

Question. How do you know that the certified copy of a concession, given by the government secretary, would have the same force and effect as a certified copy given by the notary of government as evidence?

Answer. The notary of government and secretary gave different certificates—the notary gave certificates of titles already formed, and the government secretary gave certificates of decrees and memorials; and the respective certificates of these officers were of the same effect: the notary never gave such certificates; the certificates given by the notary were as good as the certificates of the government secretary, when they related to things which he could certify—they had not the same effect when applied to memorials and decrees.

Question. Was not the notarial certificate annexed to the copy of a grant always under the seal of the notary; and was not the certificate given by the government secretary, and annexed to the copies of concessions, always without seal?

Answer. The notary used no seal; he used a flourish that was called a signet: the governor put a seal on such papers as were to go out of the province: the certificate of the secretary had no seal.

Question. Was not the signet of the notary furnished him by the government, at the time of his appointment; and was said notary not required to affix his signet to all his official acts?

Answer. Yes.

Question. How do you know that a certified copy given by the government secretary was equivalent to the original, as evidence of the party's title to the land?

Answer. The certified copy was full evidence, and the originals could be no more. I never saw the original produced in evidence.

Question. Do you recollect any case, under the Spanish government, in which an instrument of writing, certified by the government secretary as a copy of a concession, was received as full evidence of a concession, when no original concession could be found in the proper office of the government?

Answer. I do not recollect in any case of there having been any deficiency of the original.

Question. Do you recollect any usage or custom, under the Spanish government, by which a certified copy of a concession would be received in evidence and taken as proof that an original concession had existed, when no original could be found in the proper office, and when no other proof of the original having existed could be produced, except the certified copy given by the government secretary?

Answer. I know of no case having occurred in which an original was wanted; but, if the original could not be found, it would be supplied—and my reason for thinking so is my knowledge of the patriarchal character of the government, and the benevolence of the governors, who would supply the deficiency, in order that the party should sustain no loss.

Examined by Claimant.

Question. Had the notary of the government possession of, or any thing to do with, the papers kept in the secretary's office?

Answer. Not until they were passed to his office for some particular act or operation.

Question. Had the government secretary possession, or any thing to do with the papers kept in the notary's office?

Answer. No.

Question. What kind of titles were kept in the offices of the secretary and notary of the government, respectively?

Answer. The first formation of the grant, which was the memorial and decree, was lodged in the secretary's office, and was then passed to the notary's office, when prepared to receive the royal title.

Question. Were not the royal titles kept in the notary's office?

Answer. Yes.

Question. Were not the concessions kept in the secratary's office?

Answer. Yes—the memorial and decree were kept in the secretary's office, and were called concessions.

Question. You said in your reply to a question from the counsel for the United States, that the certificate of the secretary and the notary "had not the same effect, when applied to memorials and de-

crees." I now ask, would not the certified copies of either of these officers to matters proper for them to certify to, be full evidence of the matters thus certified by them?

Answer. Yes.

Question. Was or was not the certificate of the secretary to the copy of a memorial and decree, in case of a concession, as full evidence of such memorial and decree as the certificate of the notary to the copy of the title papers would be, in case of a royal title?

Answer. Yes.

Examined by United States Attorneys.

Question. Do you recollect any distinct fact or occurrence, under the Spanish government, which enables you to answer the two last questions put to you by the counsel for the claimant in the affirmative?

No, I do not recollect any particular fact or occurrence, but speak from general usage.

Question. How do you know the general usage, when you recollect no fact or occurrence by which the usage would be known?

Answer. The general usage of the papers being passed to and fro through the offices, and never being refused—does not recollect of any particular occurrence.

Question. Do you recollect an instance in which an original royal title could not be found in the proper office, either under the government of Spain or the United States, where a certified copy of such title, under the hand and signet of the notary or keeper of the public archives, was produced?

Answer. I don't recollect.

Examined by Claimant.

Question. Were not the concessions kept on loose and separate sheets of paper in the secretary's office?

Answer. Yes.

Question. Were not the royal titles kept in books, and bound together in the notary's office.

Answer. Yes.

Examined by United States Attorneys.

Question. Were not the original concessions carefully put up in bundles and tied with strings, and were they not carefully preserved in every respect, to the best of your recollection and belief?

Answer. Yes; they were tied up in bundles once a year, and labelled in front, and were carefully kept and preserved in every respect, while in the hands of the government secretary.

Question. Were the books and records of the royal titles, of which you have spoken, any thing more than a few sheets of paper stitched together, without binding?

Answer. They were generally large books, regularly bound.

*Testimony of John M. Fontane.*

OF JOHN M. FONTANE.

John M. Fontaine sworn as a witness in open Court, on behalf of the Claimant.

Question. Be pleased to state whether or not you are a native inhabitant of East Florida?

Answer. I am.

Question. Are you acquainted with the manner in which grants or concessions of land were made in East Florida, in Spanish times; if so, state the manner?

Answer. I am in some measure; I cannot say that I am perfectly acquainted with the manner; in the first place it would be by petition to the governor, and the governor would act upon the petition, and either grant or refuse the prayer of the petition.

Question. When the lands petitioned for were granted or conceded by the government was the concession or grant by the decree of the governor?

Answer. Yes.

Question. Was the original memorial of the petitioner and the decree of the governor retained in the government secretary's office, or were they delivered to the party petitioner.

Answer. The original memorial and decree remained in the secretary's office.

Question. What evidence of the grant or concession (if any) was furnished to the party to whom the lands were decreed?

Answer. A certified copy of the memorial or petition and decree by the secretary of the government.

Question. According to your opinion of the usages of this province in Spanish times, would or would not such certified copy of the memorial and decree, have been received in the Spanish tribunals, and by the Spanish public officers as full evidence of title in the person to whom the concession or grant was thus certified to have been made.

Answer. I beleive it would.

Question. Suppose, in fact, that at the time such certified copy by the secretary of the government was offered in evidence, it should be shown that the original memorial and decree were not in the office, would such certified copy still have been received as evidence of title?

Answer. I am inclined to believe it would, because I have been acquainted with many instances where the original directed that a certified copy be furnished the party for his security; and I understand the security was, to secure the party against the loss of the original.

Question. Had the interested party, I mean the petitioner, any control over, or right to the possession of the original memorial and decree?

Answer. I was always led to believe he had not. The original always remained in the office, that is, when the prayer of the petitioner was granted; when the prayer of the petitioner was not granted, the party would sometimes withdraw the originals, but when the lands were granted, the originals always remained in the office.

Question. Was or was not a copy of a concession properly certified by the government secretary full evidence that the original had been made and was in the secretary's office at the time the certified copy was given?

Answer. I would believe so.

Question. According to the usages of the Spanish government here, were not such copies, in the absence of the originals, received as equivalent to, and actually made originals?

Answer. I should believe from seeing the copy that the original was in the office.

Question. Do you or not remember the time which the papers belonging to the office of the public archives of East Florida were delivered to Mr Reynolds?

Answer. I do not recollect the the exact time; I believe about the year 1823.

Question. By whom were they delivered to Mr. Reynolds.

Answer. I don't recollect by whom they were delivered; it runs in my mind that Mr. Geo. Gibbs had something to do with them; I believe he was appointed one of the commissioners to take an examination of them.

Question. Were you or not employed as a clerk in the taking the inventory of these papers?

Answer. I was.

Question. In what state or condition were the papers found on your entering on the making of this inventory; did they appear to have been previously regularly and carefully kept, or otherwise?

Answer. They were far from being regulary kept; they did not appear to have been carefully kept; they were all over the room, a good many of the papers were not alphabetically arranged, and they were scattered and mixed.

Question. Were the papers found on shelves or *or* scattered and loose over the room?

Answer. I don't recollect at this time, whether any of them were on shelves, if there were any, I don't think there were more than two or three; I recollect seeing bundles on the floor.

Question. Were the bundles generally fastened, or were they loose and open?

Answer. Some of them were fastened, and a great many loose. The memorials and decrees were all on loose sheets of paper.

Question. In what place were these papers found, on your entering on the duty of making this inventory?

Answer. In this house, in the large room below.

Question. Are or are not royal titles bound together in books, and were they not so in Spanish times?

Answer. Yes. I have seen royal titles, bills of sale, and mortgages bound together in large books; I have also seen some dozen or more stitched together and indexed at the back.

Question. How do you account for the different manner of keeping these royal titles?

Answer. The way I account for the different manner in which they were kept is, when there was a sufficient number of the small bundles stitched together, they were made into a large book.

Question. Were or were not the door and windows of the room in which you found these papers secure and safe, or in what condition were they at that time?

Answer. Not much better than they are now; if any thing worse. I do not recollect particularly the condition of the room, there is a new door to it now, which was not there then.

Question. When these papers were taken charge of by the commissioners, as stated by you, were they not in such a condition as to extremely liable to loss, to destruction, or to be taken from the office, by any one disposed to take them?

Answer. I think that any one could have free access to the office; I have gone by it frequently and seen the front windows open and no one in the office; this was before the commissioners had charge of these papers.

Examined by U. S. Attorneys.

Question. In your answers to the sixth, seventh, eighth, ninth, tenth, and eleventh questions, put to you by the counsel for the claimants, did you intend to express your own opinion only, or did you intend to speak of the known and established usage of the province under the Spanish Government?

Answer. I speak my opinion as derived from the general usage of the country.

Question. What was your age at the time of the transfer of this province to the United States, and what opportunities had you of becoming acquainted with the usages of the province?

Answer. For many years before the exchange of flags, from the year 1815 to the change of flags, I was a commission merchant here, and had to apply for permission to land cargoes, and go through the regular routine of business. Witness is now 36 years of age.

Question. Why do you believe that according to the usage of the Spanish Government, a certified copy of a concession would have been received as full evidence of the concession; do you remember any case of the kind, and in what instance?

Answer. I recollect of one case when I petitioned myself to have a piece of land surveyed or to have a royal title made out, and I accompanied the petition with a certified copy of the memorial and decree, and that certified copy was received as evidence, and no further evidence of the title was required and the petition granted. I believe this was in relation to some lands for one Martin, at Musquito, the documents of which case the witness believes are in existence;

I don't recollect any other particularly case, but it is my impression that that was the usage.

Question. Have you any other reason for believing the usage of the province to have been such as you have stated it was, than the one you have just given?

Answer. I derived the impression from the custom of the country at that time, and the routine of doing business.

Question. What was the custom in cases, where there could be found no original concession in the proper office of the government, and an individual held a paper certified by the government secretary to be a copy from an original in that office?

Answer. I never heard that question raised under the Spanish Government.

Question. You have said that you believed a copy of a concession, properly certified by the government secretary, full legal authority to the surveyor general to survey to the party the land granted by the concession, were you acquainted with the laws on that subject?

Answer. I can't say that I was.

Question. You have said in answer to the eleventh question, put to you by the counsel for the claimant, you should believe from seeing the copy of the concession that the original was in the office; in this answer do you express your own belief only?

Answer. Yes, my belief.

Question. In speaking of the manner in which the archives were kept by Mr. Law, you have said that one might have had free access to the office, that you frequently went by and saw the front windows open and there was no one in the office; could not the royal titles have been taken out as well as the concessions?

Answer. Any papers could be taken out with the same facility; a bundle could be taken out, and a big bundle as easily as a small one, except that a person might hide a paper in his pocket and it would not be so easy to hide a bundle.

Question. Were not the bundles in which the concessions were put up larger and more difficult to remove than the sheets of paper stitched together, on which the royal titles were written?

Answer. These memorials and decrees were generally in bundles, but on loose sheets of paper; generally the small bundles containing royal titles, were stitched together and on top of one another; I have stated before that a whole bundle of concessions would be more diffidult to remove on account of the size. It would be much easier to take away a concession that was on a seperate sheet of paper, than to take away one of these bundles of royal titles that were stiched together.

Question. Have you ever known an instance, either under the Spanish Government or since the transfer of the province, in which a royal title was lost from the proper office?

Answer. I have never heard of an instance.

Question. You have said that the papers in the office under the charge of Mr. Law were kept in great disorder; do you believe that

a person unacquainted with the manner in which they were kept could find any particular paper in a whole day's search?

Answer. I except it would be a very difficult thing for a person not acquainted with the manner in which these papers were kept, to find any particular paper; I can't tell whether he could in a day's search or not.

Examined by Claimant.

Question. Do you not know that it was the uniform usage and practice of the surveyor general to act upon the copies of concessions, certified by the government secretary, as full authority to him for surveying the lands granted?

Answer. I always understood so?

*Testimony of John Rodman.*

Of John Rodman.

John Rodman sworn as a witness in open Court in behalf of the Claimant.

Question. When did you arrive in this country?

Answer. On the 13th day of August, 1821.

Question. Were you or not in the habit of frequenting the office of the public archives while in the charge of Mr. Edmund Law in this city; if you were, be pleased to state in what manner the papers in this office were at that time kept, whether with care or otherwise?

Answer. Yes; I was very often at the office of the archives while kept by Mr. Law; it was kept directly under this court-room; I went to his office for the purpose of seeing the grants and other papers in the office; I became well acquainted with Mr. Law; he was a very gentlemanly man, and I always took him to be a very honest and honorable one, in his public transactions. He kept his office of the public archives in the most careless, slovenly, and negligent manner imaginable; the public papers were lying, a great many of them, on a long table, some in bundles and some scattered about; the public office where these papers were kept was frequently left open, and no person in it to take charge of them; I would not venture to look at the papers when no person was in the office, but I frequently saw other persons that did; Spanish gentlemen, that I suppose thought they had a right to look at them. Mr. Law did not attend regularly himself in the office, being much afflicted with the rheumatism. Mr. Cavedo acted as his clerk generally and was not regular in the office.

Question. Was this office, at the time you refer to, frequented indiscriminately by persons having business there and by persons having no business there?

Answer. I can't say with regard to them who had no business there; with regard to those that had business there I will mention one occasion: the occasion which I mention was with Mr. Andrew,

who was here and agent for the sale of the Miranda grant; Mr. Andrew was afterwards made one of the judges under the ordinances of General Jackson; he asked me to accompany him to Mr. Law's office of public archives, to examine a large grant of land which he told me was made to Mr. Arredondo Junr.; he told me it was near the grant to Miranda, and was afraid that it encroached upon it; as I knew a little of Spanish, he called upon me to examine these two grants; and compare them together; we found Mr. Cavedo in the office, but not Mr. Law; Mr. Cavedo took a large bundle of grants from off the table and showed us both the grant to Miranda and the grant to Arredondo; Arredondo's for 250,000 acres. We examined very particularly both these grants, and Mr. Cavedo assisted us to translate them into English; we were perfectly satisfied they did not encroach upon each other. I can only observe that, before the land commissioners, when they applied to establish the grant to Arredondo, it could not be found and has never been found since.

Question. Have you or not constantly resided in St. Augustine since your first arrival in this territory, and are you or not an attorney and counsellor at law, and have you or not been for many years past the collector for this port and district?

Answer. I answer this question in the affirmative.

The counsel for the United States objected to all the testimony of this witness relating to the manner in which the office of the archives was kept, which objection was overruled by the court.

Examined by United States Attorneys.

Question. Did you ever go to the office without finding Mr. Cavedo there?

Answer. I have been there many times, at least a dozen times, and found no person there and the office open; I repeatedly complained to Mr. Law about it; I very rarely found Mr. Law there. The reason that I went to the office so frequently was because my friends in New York requested me to examine the titles to lands there, and I went to the office so frequently for that purpose.

No. 14.

Being the Testimony of Fernando M. Arredondo, taken under Commission in the case of Elizabeth Wiggins *vs.* the United States, and offered and read in this case on the part of the claimant, the same being so copied as to be made applicable thereto; to wit:

*Deposition of F. M. Arredondo.*

DISTRICT OF EAST FLORIDA, *July Term* 1833.

JOSEPH DELESPINE AND OTHERS *vs.* THE UNITED STATES OF AMERICA. } Land Claim, 10,240 acres.

Interrogatories to be propounded to Fernando de la Maza Arredondo, a Witness to be sworn and examined in behalf of the Petitioner in the above entitled cause, before Joseph S. Sanchez and John C. Cleland, Esquires, Justices of the Peace for St. Johns County.

First. What is your age?

Second. Are you a native born Spanish subject?

Third. Have you been, prior to the year 1819, (at which time this territory was ceded to the United States) a resident of East Florida; if you have, for what length of time?

Fourth. Are you familiar with the manner in which grants to land were usually made in this province, while under the dominion of the Spanish Monarchy; if so, state what it was?

Fifth. Was the original decree or concession by which such grants were made, delivered to the parties in whose favor they issued, or were they retained in some one of the public offices; if the latter, state in what office they were so retained.

Sixth. If in answer to the last preceding interrogatory you say that the original decree, grant, or concession was retained in a public office, by what means was it placed in the power of the grantee to evidence his title, if at any time it became necessary to do so; was it, or was it not by the delivery, to him, of a copy of such grant, concession, or decree, and if it was, was such copy certified, and if certified, by whom?

Seventh. If you say in your answer to the last interrogatory, that a certified copy of the grant, concession, or decree was issued to the grantee for his use, be pleased to say to what credit was such certified copy entitled according to the usages and practice that prevailed here in Spanish times; was it or was it not received as full and conclusive evidence of the facts set forth therein, and of the execution, existence, and genuineness of the grant of which it was a copy?

Eighth. Were copies of grants, decrees, or concessions, certified by the government secretary of the province, received as evidence by the Spanish authorities and in Spanish courts?

Ninth. If by any means the original grant, concession, or decree had been lost, destroyed, or any how abstracted from the office in which it was by law deposited, would such copy of such grant, concession, or decree, so certified by the government secretary, still have been received as evidence of the facts therein set forth, by Spanish authorities and in Spanish courts?

Tenth. Suppose the original memorial and decree of a concession from which such certified copy was made, could not be found at the

time the certified copy was offered in evidence, nor proved in any other way than by such certified copy, would it, [to wit, such certified copy,] have been received as evidence that such original had been made and had existed in the proper office, as set forth in such certified copy?

E. B. GOULD.
*Attorney for Claimant.*

Additional question to be propounded on behalf of the petitioners.

Eleventh. Was or was not a copy of a concession, certified by the secretary of the government, entitled to the same faith and credit as the certificate of a notary of the government to copies of instruments in his office?

Cross Interrogatories to be propounded to Fernando de la Maza Arredondo, on behalf of the United States.

First. If you answer the third preceding direct interrogatory in the affirmative, please to state what was your business, occupation, and pursuits during your residence in East Florida.

Second. If in answer to the fourth direct interrogatory you say that "you are familiar with the manner in which grants to land were usually made in this province while under the dominion of the Spanish Monarchy," please to state whether that manner was uniform, or variable, and if it varied, in what did the variance consist?

Third. If in answer to the fifth direct interrogatory you say that the original decree or concession was delivered to the parties, please to state what evidence was retained by the government that such concession had been made, and if you say that they were retained in some public office, state whether that practice was uniform and unvariable or not, and if variable, in what such variance consisted.

Fourth. If in answer to the sixth direct interrogatory you say that the original decree or concession was retained in a public office and that a copy was delivered to the party in whose favor such decree or concession was made, please to state how and in what manner such copy was verified; had it a seal, flourish, signo, or signet affixed to it, and if it had either, which, and by whom was that verification made?

Fifth. If in answer to the seventh direct interrogatory you say that a certified copy of the grant, concession, or decree was received as full and conclusive evidence of the facts set forth therein and of the execution, existence, and genuineness of the grant of which it was a copy, please state whether you know and can recollect a single instance under the Spanish Government where such certified copy of a grant, concession, or decree for lands was offered and received in evidence in any court or tribunal in this province, when it was known that "no original" of such grant, concession, or decree, was on file in the proper office. If you know of any such case please state it, and name the parties to it.

Sixth. If you do not know of any case where a certified copy of a grant, concession, or decree for lands was offered and received in evidence in any Spanish court or tribunal, when it was known that there was "no original" on file in the proper office, how can you say that there was such a usage as that of which you have above spoken?

Seventh. If you answer the eight direct interrogatory in the affirmative, please to state whether you know of one single case where a copy of a grant, decree, or concession, certified by the government secretary of this province, was received as evidence by the Spanish authorities, or in any Spanish court, when it was known that strict search had been made in the proper office for the "original," and no such "original" could be found on file there?

Eighth. If you answer the 9th direct interrogatory in the affirmative, please to state whether you ever knew such a case as that described in said interrogatory to occur in this province, under the Spanish Government; if you did, please to mention the case or cases.

Ninth. If you answer the tenth direct interrogatory in the affirmative, please to state clearly and distinctly whether you ever knew of any such case as that described in said tenth interrogatory, to occur in East Florida under the Spanish Government; if you did please to name the case or cases, and state the time when they occurred, and in what court or tribunal.

Tenth. Do you not claim title to some land in East Florida under alleged concessions or grants from the Spanish Government, the original grants or concessions for which cannot be found in the archives, and which claim has not been confirmed by the United States?

Eleventh. Do you not rely upon the certificate of Tomas de Aguilar, formerly the secretary of the government of this province, as proof upon which you expect to procure the confirmation of your claim to one or more tracts of land in East Florida, claimed by you under concessions alleged to have been made by the Spanish government? Have you not claims to land for which you have no other evidence that a grant, decree, or concession, was ever made? Please state particularly.

Additional Cross Interrogatories to be propounded on behalf of the United States.

Twelfth. If you answer the additional interrogatory of the complainants, numbered 11 in the affirmative, please to state how you know that fact. Do you know of any case wherein any Spanish court or tribunal, the "faith and credit" to which a copy of a concession, certified by the secretary of the government, and of the copy of any document from the escribano's office, certified by said escribano, were respectively entitled, was made a question?

Thirteenth. Was not the certificate of the escribano verified by a flourish, or signo, (otherwise called a signet,) or both—and did the government secretary affix to his certificates either a seal, flourish, signo, or signet? If he did, which?

THOS. DOUGLAS,
United States Attorney.

SUPERIOR COURT, *District of East Florida.*

JOSEPH DELESPINE and others,
*vs.*
THE UNITED STATES OF AMERICA. } Land Claim.

The answers of Fernando M. Arredondo to the interrogatories propounded to him, the said Arredondo being first duly sworn:

To the first interrogatory, witness answers, that on the 4th of next month, [August,] he will be 69 years of age, if alive.

Second interrogatory. Witness answers, yes.

Third interrogatory. Witness answers, I have been a resident from the year 1784 to 1812, at which period I went from this to the Havana, as the representative of East Florida; that my family resided at St. Augustine, and, though absent at this time, I was considered a resident of Florida.

Fourth interrogatory. Witness answers, yes, it was by memorial of the person who wanted the land, which, if decreed upon that memorial, granted, it remained in the secretary's office, and if denied, the original memorial was returned to the party.

Fifth interrogatory. Witness answers, that they were retained in the secretary's office of the government, and a copy was granted by the secretary, if it was required by the party.

Sixth interrogatory. Witness answers, that if it was required by the party, the secretary gave an authentic copy, which generally accompanied the petition for royal title, and, without the certificate, they could not proceed, as the original never came out of the office.

Seventh interrogatory. Witness answers, that it was the same as the original. I never knew an instance that it was doubted or questioned.

Eighth interrogatory. Witness answers, yes, there is not the least doubt of it—the same as if it was the original.

Ninth interrogatory. Witness answers, no doubt of it.

Tenth interrogatory. Witness answers, yes, no doubt of it.

Eleventh interrogatory. Witness answers, yes.

Cross Interrogatories.

To the first cross interrogatory, witness answers, that he was in the employment of the government, as principal officer of the hospital, commissary of the Indians, and clerk in the exchequer, for more than 20 years.

Second cross interrogatory. Witness answers, I do not know that there was any variance; you sent the memorial and got the decree: under all the governors here, it was done in the same manner.

Third cross interrogatory. Witness answers, the original memorials were always retained in the government secretary's office, (as stated in the fifth direct interrogatory,) as evidence of the grant having been made by the government, and does not know of any variance.

Fourth cross interrogatory. Witness answers, the certificate had no seal, but merely signed by the secretary and his private flourish.

Fifth cross interrogatory. Witness answers, that he does not recollect of any instance, but does not doubt that the certificate would be received in evidence in any of the Spanish courts.

Sixth cross interrogatory. Witness answers, that he has not said that that was the usage; but no doubt, if such a case had occurred, that the certificate of the secretary would be received in evidence.

Seventh cross interrogatory. Witness answers, that he does not remember of any case, but I have no doubt that it would be received in evidence, if the secretary would certify that such a document existed.

Eighth cross interrogatory. Witness answers, that he does not remember any particular case.

Ninth cross interrogatory. Witness answers, that he does not recollect of any.

Tenth cross interrogatory. Witness answers, yes.

Eleventh cross interrogatory. Witness answers, that he depends entirely upon his certificate, because my title has been in the office, and is proved to have been so, but now cannot be found; he knows that one of his titles cannot be found in the office, and others may have been lost also.

Twelfth cross interrogatory: Witness answers, that he knows it, because it was publicly established that they were entitled to the same faith and credit. I do not know of an instance where it was disputed; but if such an instance had occurred, I have no doubt but that it would have been received as conclusive proof.

Thirteenth cross interrogatory. Witness answers, yes, every escribano had their separate signets, which they affixed to documents, when they authenticated them: to some documents the secretary affixed the government seal, and to others his own name and flourish: to some passports the government seal was affixed by the secretary, but to his certificates nothing but his name and flourish.

F. M. ARREDONDO.

Sworn and subscribed to before us, this twenty-fifth day of July, A. D. 1833.

JOSE S. SANCHEZ, J. P.
JNO. C. CLELAND, J. P. } *Commissioners.*

No. 15.

*Deposition of J. A. Cavedo:*

Being the Testimony of John A. Cavedo, taken under commission, in the case of Elizabeth Wiggins vs. the United States, and offered and read in this case—the same being so copied as to be made applicable thereto, to wit:

SUPERIOR COURT, *for the Eastern District of Florida.*

JOSEPH DELESPINE and others
*vs.*
THE UNITED STATES.
} Land Claim, 10,240 acres.

Interrogatories to be propounded to John A. Cavedo, a witness to be produced, sworn and interrogated, in the above entitled cause, on behalf of the plaintiffs therein, before Joseph S. Sanches and John C. Cleland, Esquires.

First. Are you or not a native inhabitant of East Florida?

Second. Have you been acquainted with the mode of granting lands in East Florida in Spanish times?

Third. What evidence of such grant or concession was given to the party in whose favor the grant or concession was made?

Fourth. If you say, in answer to the last preceding interrogatory, that a copy of the original memorial and decree, certified by the secretary of the government, was given to the party, be pleased to state whether such certified copy, according to usage in Spanish times, was deemed full evidence of the grant or concession?

Fifth. Suppose the original memorial and decree should have been lost, or could not have been found, would such certified copy by the secretary of government still have been received by Spanish tribunals as full evidence of the grant or concession?

Sixth. Would or would not such certified copy, according to your opinion, have been full and conclusive proof that the original memorial and concession had been made, as set forth in the certificate, though, at the time such certified copy was offered in evidence, the original could not be found, nor proved in any other way than by the certificate of the secretary?

Seventh. Do you or not consider the copies certified by the secretary of government equivalent to the originals, as matter of evidence?

Eighth. Do you know whether or not the office of the public archives of East Florida was at any time in the keeping of one Edmund Law? and, if so, when, and how long, and in what house, was such office kept by him?

Ninth. Were you or not in the habit of frequenting the said office of the public archives, while so under the charge of said Law?

Tenth. In what condition were the papers in said office kept? Were they carefully arranged on shelves, or carelessly scattered about the room?

Eleventh. Were the papers secured in bundles or not? and if they were generally so secured, were, or not, in many instances, the fastenings of the bundles loosed, so that the separate sheets of which said bundles were composed were exposed to be scattered and blown about, and were they not often actually so scattered and blown about?

Twelfth. Have you or not seen, at various times, the public papers in said office lying about in confusion on the floor?

Thirteenth. Was or was not the said office the common thoroughfare and lounging place of a great many idle persons?

Fourteenth. Was or was not the said office frequently left open, without the presence of any person who was authorised to protect, supervise and keep in custody the papers deposited in it?

Fifteenth. Do you or not know if it was the practice for persons who desired the use of papers on file in the said office, to take them out of said office in as great numbers, and at any time they pleased so to do.

JNO. DRYSDALE, *for Claimants.*

Cross Interrogatories to be propounded to John A. Cavedo, on behalf of the United States.

First. If, in answer to the fourth direct interrogatory, you say that a certified copy of the memorial and decree was, according to usage in Spanish times, full evidence of the grant or concession to the person in whose favor such grant or concession was made, please to state how you know that fact? Did you ever see or hear of a case in which this principle was tested? If you did, please name the case and the parties to it.

Second. If you answer the fifth direct interrogatory in the affirmative, please to state how you know that fact. Do you know, or can you recollect, a single case, under the Spanish government, where such certified copy of a memorial and decree was received by any Spanish tribunal as full evidence of the grant or concession, when the original memorial and decree could not be found, and there was no other evidence that such original memorial and decree ever existed? If you did, name the case, and say when it occurred.

Third. If you answer the sixth direct interrogatory in the affirmative, please to state whether you ever knew a single case, under the Spanish government, where such certified copy was received by any Spanish court or tribunal as full and conclusive proof that the original memorial and concession had been made, as set forth in the certificate, when, at the time such certified copy was offered in evidence, the original could not be found or proved in any other way than by the certificate of the secretary, and there was no other proof that such original ever existed. If you do, please state the case, and say when it occurred, and name the parties to it.

Fourth. If you answer the seventh direct interrogatory in the affirmative, please to state whether you know of a single case where such a copy, certified by the secretary of government, was offered and received as evidence equivalent to the original, when, after due examination in the proper office, no such original was found on file there, and there was no proof, except said copy, that such original ever existed. If you do, please name the case and the parties to it, and say when and where it occurred.

Fifth. If you know of no such case or cases as those above specified, how can you testify that the "usage" is as you have above stated?

The counsel for the United States object to all the direct interrogatories of the complainant, from the 7th to the 15th, inclusive. Because they are leading, irrelevant, and wholly inadmissible, according to every principle of law and equity.

Sixth. If you answer the thirteenth direct interrogatory, in the affirmative, please to name the persons who made said office a lounging place, and thoroughfare, at the time you mention?

Seventh. If you answer the fifthteenth direct interrogatory, in the affirmative, please to state how you know that the practice, in relation to said office, was as you have stated it, and particularly the time when, and what person or persons took any original papers from said office, and what papers they took, and whether they did not return them again to said office?

THOMAS DOUGLAS,
*United States Attorney, &c.*

SUPERIOR COURT—*Eastern District of Florida.*

JOSEPH DELESPINE and others
*vs.*
THE UNITED STATES. } Land Claim 10,240 Acres.

The answers of John A. Cavedo to the interrogatories propounded to him, in the above entitled cause, the said John A. Cavedo being first duly sworn.

To the first interrogatory, witness answers, I am.

Second interrogatory, witness answers, I have.

Third interrogatory, witness answers, a copy of the Governor's decree from the secretary of the government.

Fourth interrogatory, witness answers, it was.

Fifth interrogatory, witness answers, it would.

Sixth interrogatory, witness answers, it would.

Seventh interrogatory, witness answers, I do.

Eighth interrogatory, witness answers, I knew Edmund Law to have had the archives under his charge. I do not know how long, but it was kept at the government house.

Ninth interrogatory, witness answers, I was, as he had employed me to write for him in the same office.

Tenth interrogatory, witness answers, they were; a part of them kept on shelves, and part of them on the floor, they were not at all kept carefully.

Eleventh interrogatory, witness answers, they were a part of them in bundles, and a great many loose; they were exposed to be blown and scattered about the room, and were blown and scattered about the room.

Twelfth interrogatory, witness answers, many times.

Thirteenth interrogatory, witness answers, I do not know whether the persons that frequented the office, were idle or not; but there were a great many loungers about the office.

Fourteenth interrogatory, witness answers, it was.

Fiftheenth interrogatory, witness answers, Mr. Law gave me an order to deliver the gentlemen of the bar, documents out of the office, by my receiving a receipt for the same.

*Cross Interrogatories.*

To the first cross interrogatory, witness answers, because I never heard of any of them being disputed or rejected by the government.

Second cross interrogatory, witness answers, when the party petitioned for his royal title, the certified copy of the Governor's secretary, was considered sufficient evidence to enable the party to obtain his title from the escribano's office.

Third cross interrogatory, witness answers, I do not know, I cannot exactly state.

Fourth cross interrogatory, witness answers, the certificate of the secretary of the government, was considered as sufficient evidence. I do not recollect of any particular case, or the parties.

Fifth cross interrogatory, witness answers, because I visited, occasionally, the escribano's office, and I saw how the proceedings went on.

Sixth interrogatory, witness answers, I know several persons, to wit: Joseph S. Sanchez, Edward R. Gibson, Charles Vignoles, John M. Fontane, Raphael Fontane, Chas. Gobert, Thomas Penn, Lewis Hugnon, and many others that I cannot recollect.

Seventh cross interrogatory, witness answers, I know of one instance, wherein I took a receipt from Gautier, for the testamentary document of the estate of Mater Gaudarama. I do not recollect the time.

JOHN A. CAVEDO.

Sworn and subscribed to, before us, this 30th day of July, A. D., 1833.

JOHN C. CLELAND, J. P., }
JOS. S. SANCHEZ, J. P. } *Commissioners.*

No. 16.

Being affidavits offered and read in this case on behalf of the claimants, and numbered from one to seven inclusive, to wit:

ONE.

*Affidavit of Joseph Delespine.*

JOSEPH DELESPINE and others
*vs.*
THE UNITED STATES.

Personally appeared Joseph Delespine, the petitioner in the above cause, who being duly sworn, doth depose and say, that this deponent purchased the lands in the petition in this cause, mentioned from Pablo F. Fontane, in the year one thousand eight hundred and twenty-two, upon the certified copy of the original concession or grant of the same, and in the State of South Carolina; that the said Fontane, in his deed to this deponent of the said lands, referred to the original concession or grant, as being in the archives of East Florida; that this deponent had, at the time of the said purchase, no reason to doubt that it was so, nor has he now any reason to doubt, that the said Fontane believed that the said original was at that time among the said archives; whether the said original was, in point of fact, among the said archives at that time, this deponent doth not know; but he saith it never has been in his possession, power, or control, and that it was not until a considerable time after the said purchase, that he discovered the original concession or grant, was not to be found in the office of the public archives.

JOSEPH DELESPINE.

Sworn to, before me, this 17th day of April, 1832, in open court.
K. B. GIBBS, *Deputy Clerk.*

TWO.

*Affidavit of John Drysdale.*

JOSEPH DELESPINE and others
*vs.*
THE UNITED STATES.
Land Claim.

Personally appeared John Drysdale, who being duly sworn, doth depose and say, that the widow of Pablo Fontane, the original grantee of the lands claimed in this case, intermarried with one William Hanford, now of the city of St. Augustine; that this deponent called on the said William Hanford, to ascertain from him, whether he had in his possession, or whether his wife had in her ossession, the original grant of the said lands; that upon said enquiry y this deponent, the said William Hanford produced a number of

old papers, which had been in the possession of the said Pablo Fontane in his life time; that the said William Hanford, and this deponent, together examined the said papers, to ascertain whether the said original grant, was among them, but could not find it after careful examination. The said William Hanford enquired of his wife for all the papers which had belonged to her former husband, and the deponent believes that all that they now have in their possession, were produced and examined as aforesaid.

JOHN DRYSDALE.

Sworn to, before me in open court, this 24th of May, 1832.

K. B. GIBBS, *Deputy Clerk.*

THREE.

*Affidavit of John Drysdale.*

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| HEIRS of JOSEPH DELESPINE, deceased, MICHAEL LAZARUS and JOHN DRYSDALE *vs.* THE UNITED STATES. | In the Superior Court, Petition for confirmation of title to 10,240 acres of Land on Indian river. |

Personally appeared John Drysdale, one of the petitioners in the above cause, who being duly sworn, doth depose and say, that he was employed as counsel and attorney at law, by Joseph Delespine, late of St. Augustine, deceased, to fill and prosecute his petition for the confirmation of the title to the said lands, before the board of commissioners, appointed under the acts of Congress, in that case provided to ascertain and settle the titles and claims to lands in East Florida; that on that occasion, the only documentary evidence of the original grant of the said lands to Pablo Fontane, under whom the said Delespine claimed by purchase, placed in the possession of this deponent, consisted of the copy of the said original grant, certified by Tomas de Aguilar, the secretary of the Spanish Government of East Florida, and the original petition and order for the survey of the said lands, both of which are now of file among the papers of this case. That no other documentary evidence has been placed, or has otherwise at any time come to the hands, possession, or knowledge of this deponent, for the purpose of prosecuting and supporting the present suit, or the claims thereby presented and set forth, or for any other purpose whatever. This deponent further deposeth, that he has repeatedly enquired of, and spoken to, the said Joseph Delespine and Michael Lazarus, concerning the said original grant, but could obtain no information from them concerning it; this deponent, understanding from them, that they nothing of it whatever; and this deponent further deposes that he never saw the said original grant; that it is not now, and never has been in his possession, power, or control, and that he knows nothing personally or otherwise, except as he learns by the testimony in the above entitled suit, of its existence.

JOHN DRYSDALE.

Sworn to, before me in open court, this 11th day of Oct., 1837.
K. B. GIBBS, *Clerk.*

FOUR.

*Affidavit of John M. Fontane.*

IN THE SUPERIOR COURT—*Eastern District of Florida.*

HEIRS OF JOSEPH DELESPINE and others *vs.* THE UNITED STATES. } Claim for 10,240 Acres of Land on Indian river.

Personally appeared John M. Fontane, who being duly sworn, doth depose and say, that he is the administrator of Joseph Delespine, late of East Florida, deceased; that as such administrator, he has the possession of the papers of the said Joseph Delespine; that he hath made diligent search among the said papers for the original concession of ten thousand two hundred and forty acres of land, situated on Indian river in East Florida, to Pablo Fontane, who is also deceased, on which the claim, in the above entitled cause, is founded, but without finding any such document among the said papers; that the said concession never has been in the possession of this deponent, as the administrator of the said Joseph Delespine or otherwise; and this deponent knows not where the said original concession is, or whether it is now in existence; but he has every reason to believe, and doth believe, that it is irrevocably lost.

JOHN M. FONTANE.

Sworn to, before me, this 7th day of July, A. D., 1838.
K. B. GIBBS, *Clerk.*

FIVE.

*Affidavit of Mathew Solana.*

IN THE SUPERIOR COURT—*Eastern District of Florida.*

HEIRS OF JOSEPH DELESPINE AND OTHERS *vs.* THE UNITED STATES. } Land claim for 10,240 acres.

Personally appeared Mathew Solano, who being duly sworn doth depose and say, that he is the administrator of Mrs. Mary Hanford, deceased, who was the widow of Pablo F. Fontane, deceased; and he hath not now, and never had in his possession, power, or control, as such administrator, or otherwise, the original concession for ten thousand two hundred and forty (10,240,) acres of land, made by Governor Coppinger to the said Pablo Fontane, and on which, as this deponent is informed, the claim in the above entitled cause is

founded; that this deponent hath no knowledge whatever of the existence of the said original concession, or where the same now is, or that it now exists.

MATHEW SOLANO.

Sworn to, before me this 9th day of July, 1838.

K. B. GIBBS,
*Clerk.*

SIX.

*Affidavit of John Drysdale.*

IN THE SUPERIOR COURT—*Eastern District of Florida.*

HEIRS OF JOS. DELESPINE AND OTHERS *vs.* THE UNITED STATES. } Claim for conf. of title 10,240 acres of Land.

Personally appeared John Drysdale, one of the petitioners in the above entitled cause, who, being duly sworn, doth depose and say, that he hath not now, and never had in his possession, power, or control the original concession for ten thousand two hundred and forty acres of land, on which the petition in this cause is founded; that he has no knowledge whatever of the existence of the said document, or where it now is, if it be in existence; that in the lifetime of the widow of the said Pablo Fontane, who is now dead, this deponent called on her and her said husband, Capt. Hanford, for the purpose of ascertaining whether the said document was in their possession, or in the possession of either of them; that upon that occasion, Mrs. Hanford produced what she said were all the papers in her possession concerning the estate of her deceased husband, Pablo Fontane; that the said Capt. Hanford and this deponent, together, examined the said papers with great particular*ly* and care, but found no such document among them as the original concession aforesaid; that the said Capt. Hanford, upon the termination of the said examination, stated that the said papers, so examined, were all the papers in the possession of his wife and himself, belonging to Mr. Fontane's estate; and that he could give no information concerning the concession enquired for.

JNO. DRYSDALE.

Sworn to, before me this 9th day of July, 1838.

K. B. GIBBS, *Clerk.*

SEVEN.

*Affidavit of John Drysdale.*

IN THE SUPERIOR COURT—*Eastern District of Florida.*

HEIRS OF JOS. DELESPINE AND OTHERS *vs.* THE UNITED STATES. } Claim for conf. of title to 10,240 acres of Land.

Personally appeared John Drysdale, one of the petitioners in the above entitled cause, who, being duly sworn, doth depose and say, that he hath not now, nor never had in his possession, power, or control the original concession for ten thousand two hundred and forty acres of land, on which the petition in this case is founded; that he has no knowledge whatsoever of the existence of the said document, or where it now is, or whether it be in existence or not; this deponent deposes that in the lifetime of the widow of Pablo F. Fontane, the original grantee, this deponent called on her and her second husband, Captain William Hanford, with whom she had intermarried, for the purpose of ascertaining whether the said document was in their possession, or in the possession of either of them; that on that occasion Mrs. Hanford produced what she declared to be all the papers in her possession concerning the estate of her deceased husband, the said Pablo F. Fontane; that the said Hanford and this deponent, together examined the said papers with great care and particularity, but without finding the said original concession among them; that the said Captain Hanford, upon the termination of the said examination, stated to this deponent that the said papers, so examined, were all the papers in the possession of his wife and himself, belonging to the estate of the said Pablo F. Fontane, and that he could give no information concerning the concession enquired for.

This deponent further says that he has made repeated enquiries of Joseph Delespine and Michael Lazarus concerning the said original concession, and that he endeavored to impress upon them the importance of its production, stating that its absence from the office of the public archives presented the only difficulty in the way of procuring a confirmation of the claim, that they both stated distinctly that they could give no information whatever respecting it, and that it had never been seen by either of them and was not in the possession, power, or control of either of them.

This deponent further deposes that he has enquired of the keeper of the public archives whether the said original concession in his office, to which enquiry the said keeper has informed this deponent, that it is not in his office.

JNO. DRYSDALE.

Sworn to, before me this 11th day of July, 1838.

K. B. GIBBS,
*Clerk.*

And on the eleventh day of October in the year of our Lord one thousand eight hundred and thirty-seven, the said claimants by their said solicitor, brought and filed in the clerk's office aforesaid, a bill of reviver, in the words and figures following, to wit:

*Bill of Reviver.*

To the Honorable the Judge of the Superior Court for the Eastern District of Florida.

Humbly complaining shew unto you Honor, your petitioners, Sophia Wallace, the wife of George Wallace, formerly Sopia Delespine, and Frances Delespine, children and heirs at law of Joseph Delespine, deceased, and Emeline Delespine, Matilda Delespine, Henry Delespine, Joseph Delespine, Josephine Delespine, and Mary Delespine, also children and heirs at law of said Joseph Delespine, deceased, minors, under the age of twenty-one years, by John M. Fontane their next friend.

That the said Joseph Delespine, late of the city of St. Augustine, in the eastern district of Florida, but now deceased, with Michael Lazarus and John Drysdale, exhibited their petition in this honorable court against the United States on or about the twenty-second day of May in the year one thousand eight hundred and twenty-nine, thereby stating such matters and things as are therein for that purpose, more particularly mentioned and set forth, praying that the validity of their title in and to the said lands might be enquired into and decided by this honorable court, and that due process might issue and be served according to the provisions of the acts of the Congress of the United States in that case made and provided; and your petitioners shew that process of citation was according to the acts of Congress, issued and served on Thomas Douglas, Esqr., the attorney of the United States for the district aforesaid: whereupon the said Thomas Douglas as such attorney duly filed his answer to the said petition; and your petitioners further shew that some procedings had taken place in the said case, when the said Joseph Delespine departed this life, intestate, leaving your petitioners his heirs at law upon whom the estate, right, and title of the said Joseph Delespine in and to the said lands descended; and your petitioners say that the said suit and proceedings having become abated by the death of the said Joseph Delespine, as to the estate and interest of that said Joseph Delespine in the said lands, your petitioners are, as they are advised, as the heirs at law of the said Joseph Delespine, entitled to have the said suit and proceedings revived against the United States, and to have them put in the same state and condition as they were in at the time of the abatement thereof.

To the end therefore that the said Thomas Douglas, Esq., as attorney of the United for the district aforesaid may answer the premises, and that the said suit and proceedings which became so abated as aforesaid, may stand revived, and be in the same state and condition as the same were in at the time of the death of the said

Joseph Delespine, or that the said Thomas Douglas as attorney as aforesaid, may shew cause to the contrary; may it please your Honor to direct that citation to revive the said suit or proceedings may issue and be served on the said Thomas Douglas as attorney of the United States for the eastern district of Florida, in conformity with the acts of the Congress of the United States in that case made and provided, and your petitioners, as in duty bound, will ever pray, &c.

JNO. DRYSDALE.
*Sol. for Petitioners.*

A copy of the foregoing bill of reviver, with a scire facias thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district, and the return of the said marshal thereon is in the words and figures following, to wit: "served this 16th day of October 1837."

"JOHN M. FONTANE,
*Dep. Marshal.*"

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to which term this cause had come by regular continuance, to wit: on Tuesday the third day of said term, and the eighteenth day of said month, the following entry of record was made in this cause, to wit:

*Case again Submitted.*

JOSEPH DELESPINE, AND OTHERS
*vs.*
THE UNITED STATES OF AMERICA. } Land Claim 10,240 acres.

This day came as well the counsel for the said claimants, as the counsel for the United States, and this claim was submitted to the court for its decree thereon.

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-eight, to wit, on Monday the eighth day of the said term and the tenth day of the month of September, the following decree was entered of record in this cause, to wit:

*Decree of the Court.*

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| HEIRS OF JOSEPH DELESPINE, MICHAEL LAZARUS, AND JOHN DRYSDALE, *against* THE UNITED STATES OF AMERICA. | Land Claim 10,240 acres. |

Whereas Joseph Delespine, Michael Lazarus, and John Drysdale, did, in pursuance of the act of the Congress of the United States, entitled, "an act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida, and approved 23rd day of May, 1828, on the 22d day of May, 1829, file their petition for the confirmation of certain land therein mentioned in the clerk's office of the superior court for the eastern district of Florida; and whereas the attorney of the United States for this district did duly appear and file his answer to the said petition, and this cause having been heard and evidence and argument of counsel, as well on the part of the said cliamants as on that of the United States, having been offered and submitted to the court, and the court having examined the claim of the said petitioners, and the answer of the attorney of the United States, together with the evidence filed in this cause and having maturely considered the same, doth order, adjudge, and decree that this claim is valid, and that in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement, and limits, between the United States of America and the king of Spain," ratified by the President of the United States on the 22d of February, 1821, and under and by virtue of the laws of nations and of the United States; it is hereby confirmed, adjudged, and decreed unto the said claimants, to the extent, for the number of acres, and at the place, as in the memorial of Pablo Fontane for the grant and the decree of the governor thereon, is set forth, to wit, "a square of four miles of land on a creek which, issuing from the north head of Indian river, westwardly, runs to the northwest."

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of October, in the year of our Lord one thousand eight hundred and thirty-eight, to wit: on Wednesday the second day of said term, and the tenth of said month, the following entry of record was made in this cause, to wit:

*Appeal.*

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| THE UNITED STATES OF AMERICA *vs.* THE HEIRS OF JOSEPH DELESPINE, deceased, and others. | Land Claim 10,240 Acres. |

This day came as well the attorney of the United States, for this district, as the solicitor for the said claimants; and the said attorney

of the United States, moved the court that an appeal be granted in this case on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; and that a citation, with notice of said appeal, may be forthwith issued, by the clerk of this court, to the appellees, and the same may be served by the marshal of said district, upon the said appellees, or their solicitor or agent, and returned to this court within thirty days from the issuing thereof, all of which is ordered accordingly.

In persuance of the order above set forth, a citation of appeal was duly issued; which said citation, and the return of the marshal thereon, are in the words and figures following, to wit:

*Citation of Appeal.*

In the name and by the authority of the United States of America:

To the heirs of Joseph Delespine, deceased, and to Michael Lazarus and John Drysdale, or to their agent, attorney or solicitor, greeting:

You are hereby cited and admonished, that an appeal has been taken on the part of the United States, from the decree of the superior court for East Florida, to the Supreme Court of the United States, in a certain claim to ten thousand two hundred and forty acres of land, wherein you, the said heirs of Joseph Delespine, and the said Michael Lazarus and John Drysdale are claimants, and the said United States respondent, and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court at the next term thereof, to be holden on the second Monday of January next.

[SEAL OF THE COURT.] Witness the Honorable Robert Raymond Reid, Judge of our said court, at the court house in the city of St. Augustine, this 10th day of October, 1838.

K. B. GIBBS, *Clerk.*

THOMAS DOUGLAS,
*District Attorney.*

J. DRYSDALE,
*Solicitor for Claimants.*

"Served by delivering a copy of this process to John Drysdale, Esq., October 11th, 1838."

"JOHN M. FONTANE,
*Deputy Marshal.*"

SUPERIOR COURT—*District of East Florida.*

I, Kingsley B. Gibbs, clerk of the said court for the disirict aforesaid, do hereby certify, that the foregoing one hundred and thirty-four pages and seven lines, contain a full, true, and complete transcript of the record and proceedings, had in the case therein named in my charge; and that the plat of survey attached to, and made a part of this rocord, is faithfully copied from the original, as offered in evidence in said cause, on file in my office.

In witness whereof, I have hereto set my hand, at the city of St. Augustine, this twenty-fifth day of October, in the year one thousand eight hundred and thirty-eight.

K. B. GIBBS, *Clerk.*

By the Honorable Robert Raymond Reid, Judge of the superior court for the district of East Florida, to all to whom these presents shall come, be seen, or made known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district of East Florida; that all due faith and credit are, and ought to be, given to his acts as such, and that the foregoing attestation is in due form of law.

[S. L.] In testimony whereof, I have hereto set my hand, and caused the seal of the said court to be hereunto affixed, this twenty-fifth day of October, A. D., 1838, and of the Independence of the United States of America, the sixty-third.

ROBERT RAYMOND REID.